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Law Centenary Issue

Some Problems of a Law Faculty

By Dean C. S. LeMesurier

In considering the purpose of a Law School and its contributions to the life of the community, we must first determine the role that the Bar as a group and the lawyer as an individual play in society as well as the value of legal education as a preparation for business, the civil service and political life.

The Bar should provide leadership in legal reform and trained skills in the drafting of legislation as well as an understanding of the limits of law enforcement. It is obvious that these calls on the profession require more than a knowledge of legal rules. They demand a wide understanding of social needs and of the way in which law functions in society.

In turing to law as a preparation for public life and for business the lawyer requires the same basic understanding of the whole field of law as the general practitioner, but with a very different emphasis. To the business man or civil servant the problems arising from marriage or disputes about the renting of a house have relatively little importance, but he does need an understanding of the government of the country at all levels from the Dominion Parliament to a small school board and of the way in which the government operates through its many administrative and quasi-judicial agencies.

He must not only be familiar with the way in which the Board of Transport Commissioners operates, but understand its social and economic implications. The same holds true for industrial law. Not only so, but he needs in addition to have studied and thought about ways of controlling administrative bodies, of effectively protecting the individual, whether human beings or corporations, from arbitrary decisions, and of doing this in such a way as not to hamper the work for which the agency was created.

Keeping in mind these needs both of the profession and of the individual, a law faculty must plan a curriculum giving to all students a broad coherent view of the basic principles of law, provide the student with the necessary skills and techniques which will enable him to tackle any problem in any field whether he has previously studied the matter or not and finally it must select the content of and arrange the curriculum so as to achieve these objectives and enable the student to get the feel of law and understand the way it operates.

The task of planning a curriculum is not so much determining what is to be included, but rather of what can be left out. A first year curriculm will inevitably contain the basic private law courses, persons, property, obligations, legal history and an elementary course on legal science and method. This latter course will also deal with public law concepts. Public law and civil procedure may also begin at this stage.

Although opinions on this point differ, much is to be said for completing civil law in second year and including, at this stage a general course in commercial law following along the lines of the Bar regulations. Civil procedure should begin in order that students may have an understanding of the way in which rights are enforced. The attention of the student at this stage should be directed to the broader aspects of judicial remedies, their nature and their relation to substantive law other than to the detailed rules of the local jurisdiction. The approach should be scientific and comparative rather than technical and local. Constitutional law might well be completed in this year laying the frame-work within which administrative and industrial law function.

In the third year procedure should be completed in the same general spirit but with more emphasis on a critical appraisal of our own system, administrative and industrial law dealt with, as well as special fields in commercial law such as business organization and finance, insurance and negotiable instruments. At this stage the principle of options should be introduced in order that a student may have the opportunity of doing intensive work in a field of his choice. Here too subjects such as comparative law, conflict of laws, public international law should be taken.

It will be noted that not all subjects of a well-rounded curriculum have been mentioned largely because their precise place in the curriculum is not important, for example it matters little whether criminal law be studied in first, second or third year and it should be placed wherever it gives balance to the curriculum. Roman Law may be placed in the first or in the final year depending on whether the course is treated as a basis on which to build or whether it is conceived as a study of the rise and fall of a civilization and its legal system.

Important as the content may be, its significance does not mainly lie in the practical usefulness to the young lawyer in his first year of practice, but it should be judged by the understanding of the whole process of law as a dynamic thing which it offers, and as to the opportunity it affords for individual study and initiative. No matter how excellent the curriculum may be, the value of the course depends on the soundness of teaching method and the exacting of high standards. Having taken a course of this character involving research and the writing of essays, the student proceeding to the profession should be ready to begin learning, through some form of "clinical training,"

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Principal's Message

By F. CYRIL JAMES,
Principal and Vice Chancellor McGill University.

Renan emphasized the fact that "the day of the death of Marcus Aurelius may be taken as the decisive moment in which the ruin of the old Roman civilization was determined" but a generation afterwards, in the midst of political chaos, Papinian and Ulpian were laying the foundations on which the Justinian Code was later to be erected as a living embodiment of the finest qualities of ancient Rome. Bracton, in similar fashion, was writing his great book, **De Legibus et Consuetudinibus Angliae**, during that troublous period of English history when barons were at war with the King.

Using a phrase from the Institutes, Bracton insists that lawyers "are the ministers at the court of justice and feed its sacred flame." That claim is not too high when the profession lives up to the finest ideals of its long tradition. It is among the functions of the law in an age of social and political change to preserve what is best from the past: it is equally responsible for that continual re-statement and new interpretation of old rules which is needed in order to preserve equity. Its aim is justice, not partisanship or the cheap attractions of special pleading.

The record of the Faculty of Law during the century that lies behind us is one that needs no encomiums. It speaks for itself, and adds to the lustre of McGill University.

What concerns us today is the century that lies ahead, the voyage on which we in this generation are now embarking. Recent events in the United States tend to discourage the habit of prophecy, but one does not need to be an augur to realize that we are living in such an age of change. It may not be "a time of the breaking of nations" (although one canot with confidence rule out the possibility) but it will certainly be a period of changing values, changing institutions and changing habits.

In such a period "the ministers at the court of justice" are likely to play an important part on the stage. If they play it wisely, they can contribute much to the progress and welfare of mankind, but the years ahead of us will demand knowledge and wisdom of a high order. At no previous period have the Faculty of Law and the legal profession faced a greater challenge than that which today confronts them in regard to the preservation of human liberties and the re-statement of personal responsibilities. Let us keep the memory of an Ulpian or a Bracton before our minds and strive continuously, despite the threat of chaos, to create a better ordered society in which free men can dwell at peace.

The Judiciary In Quebec

By O. S. TYNDALE,
(Associate Chief Justice of the Superior Court of the Province of Quebec.)
Chancellor of McGill University.

In the Province of Quebec, those who practise law and those who administer it from the Bench have both a more difficult and a more interesting task than their colleagues in the other provinces. As is well-known, our purely Civil law is of French origin and we have what the undersigned considers to be the great blessing of a Civil Code which, in spite of various defects, is a masterpiece and a compendium of the legal wisdom of the ages — a readily available mine of fundamental principles. Our commercial law differs little from that of the common law jurisdictions; the Canadian Criminal Code (based on English law) applies throughout the country; and our administrative law in general is founded on the great principles evolved in England.

In consequence, the student of the law applicable in Quebec, be he undergraduate, advocate or judge, must be familiar, to some extent at least, with the two great legal systems which prevail in the Western World. Of necessity, he becomes acquainted with both the logic and the clarity so characteristic of the French mind and the more empirical and practical wisdom of the Anglo-Saxon.

Although Quebec has a Civil Code based largely on that of France, we have not adopted the French system with regard to the appointment of Judges. In France, the law student normally decides, at the outset of his career, whether he will practise as an advocate or become a member of the "magistrature," which in that country includes certain officials in the Department of Justice and public prosecutors as well as judges. As a result, the young man who has chosen the "magistrature" first obtains a minor post either in the Department of Justice or in one of the courts and, thereafter, constantly hopes for promotion to a higher position.

In Quebec, as in the rest of Canada, Judges are appointed by the Government from among advocates of some years' practice and once appointed they have, as is said, nothing to fear and nothing more to hope for. Very rarely is a Judge in Canada moved from a lower to a higher court and although a Judge may be appointed Chief Justice, the slight increase in remuneration and the added prestige are more than offset by the additional work and worry entailed. Moreover, as in England, a High Court Judge can be removed from office only by way of an address from both Houses of Parliament. It is true that most people who are acquainted with the situation consider that the scale of judicial salaries is too low, but at least a pension is provided.

It is said that in Canada judicial appointments are affected by political considerations. That is so only to a limited extent. The Government is naturally not likely to appoint a lawyer who has been an exceptionally active and vocal opponent of the party in power, and there may have been one or two instances in the past where the main qualification appeared to be political services rendered. In recent years, however, so far as the knowledge of the undersigned goes, all those appointed to the Bench have been well qualified for the post and in several cases the appointee had never had any affiliation with the party in power.

It may be of interest to add that, in many of the States of the U.S.A., Judges are elected for a certain number of years by the voters of the district in which they are to sit and may, at the end of the term, offer themselves for re-election. This system has obvious disadvantages and has been frequently criticized.

In brief, while our Judges are underpaid and (in the District of Montreal at least) overburdened, they have the considerable advantages of security of tenure, freedom from political pressure and interesting work. Therefore, to an advocate who has private means or who is prepared to live on a modest scale, a seat on the Bench should be a most acceptable honor. It also provides an opportunity to render public service of the first importance; because, as every thoughtful person must realize, true democracy, as we understand it in Canada, cannot work properly unless justice is administered by well qualified and independent Judges.

McGill's Faculty of Law 1848-1948

PAUL P. HUTCHISON, ED., KC.,
(McGill BA., '16., BCL., '21).

In the early part of the Nineteenth Century there was no law school in Lower Canada. To qualify for the practice of law a student was articled to a practising Advocate for a period of five years, learned what he could from his "patron" during that time, and then appeared before a committee of local judges to be examined on his knowledge of legal matters and procedure If they considered the law student sufficiently qualified he was then commissioned by the Government to practise.

At Montreal in 1823 a young man by the nam of William Badgley, scion of a wealthy fur-trading family of the old Nor'West Company, began to practice law and became the founder of one of the oldest law firms in Canada which is now in its one hundred and twenty-fifth year. In due course Badgley became one of the most prominent lawyers of his day, Attorney-General for Lower Canada, and eventually a justice of the Court of Queen's Bench. In 1843 McGill College conferred upon him an honorary LL.D., and somewhat later appointed him a professor at large, possibly because, in addition to instructing the law students indentured to him, Badgley was conducting private classes in the study of law.

During May or June 1848 these law students, together with others, met at the Court House in Montreal and petitioned McGill College to start a law course leading towards the granting by the College of the degree of Bachelor of Civil Law. Alexander Morris was the spokesman for these students and carried on a lively correspondence with the Vice-Principal, Canon Leach, about this proposal. The Vice-Principal considered the law students should matriculate into the Arts Faculty for a five year course, two of which would be devoted to classical literature and that the full course should lead to a B.C.L. degree, with provision as well for the granting of a Doctorate of Civil Law in course. On July 15th, 1848 the matter was put before a meeting of the Governors of McGill; they decided to establish a Faculty of Law.

The Honourable William Badgley Q.C. was appointed McGill's first Dean of Law that year and the law classes started under him during the Michelmas term with twenty-two students. These included a Papineau, two Abbotts and two Molsons. No provision was made, by the Governors for the remuneration by the College of the first Dean, but they were so generous as to grant him the formal authority to charge each student a fee of two pounds a year, the initial payment required for the first class being five dollars upon entrance.

FIRST GRADUATES

In 1850 five students were the first graduates of the new Faculty to receive their law degree, among them being the student leader, Alexander Morris. He, as well as being one of the first graduates in Law, was McGill's first Bachelor of Arts; in time Morris became a cabinet minister at Ottawa and Chief Justice, then Lieutenant-Governor of Manitoba. Another of the first Law graduates was Christopher Charles Abbott whose father, the Reverend Joseph Abbott, for a decade was a sort of general factotum at McGill as a lecturer in various subjects, its registrar, bursar, secretary, librarian and vice-principal. Soon other Quebec colleges followed McGill's example, notably Laval which statred its law faculty in 1854. When the Bar Association of Lower Canada was incorporated the period of indenture to a practising advocate was shortened to three years for law students studying at a college for a law degree.

Dean Badgley continued to head the Law Faculty until 1856. No faculty meetings are recorded before 1853 and only two from then until 1857. But from 1850 to 1860 thirty students received their B.C.L. degree at McGill. Soon after the first law lectures were given, the Dean, in his private practice, entered into partnership with a promising young Advocate, John J. C. Abbott, who had been called to the Bar two years before. John Abbott was a brother of the C. C. Abbott who had been one of the first graduates of the new Faculty. It was not long before the Dean recruited his junior partner to assist in the teaching of their profession at McGill. John Abbott became a lecturer in Commercial Law in 1853 and two years later, when his senior partner was appointed to the Bench of the Superior Court, Abbott was promoted to Professor of Commercial and Criminal Law. The following year Dean Badgley retired and Professor Abbott succeeded him as Dean of the Faculty.

DEAN ABBOTT

Dean Abbott in his private practice became one of the greatest lawyers of his day, outstanding in commercial law matters, and like his former senior partner, also took an active part in politics. In time he was to become Lieutenant-Colonel the Honourable Sir John J. C. Abbott, KCMG, PC, DCL, and Prime Minister of Canada. His interests were wide and varied, his capacity for work immense, an active teacher at McGill, one of the original Canadian Pacific Railway pioneers and its first General Counsel, twice Mayor of Montreal, Member of Parliament, Government Leader in the Senate, a director of many great corporations, first President of the Royal Victoria Hospital, Commander of the militia regiment and perpetual head during his lifetime of the Fraser Institute. One of his first steps as a Dean of the Law Faculty was to revise the curriculum along more practical lines. As he taught he also studied and the first minute book of the McGill Law Faculty records that his application for a doctorate in law, "being a degree in course was considered also with his thesis and it was resolved . . . . . that the degree of D.C.L. . . . . be granted." Dean Abbott continued to head the Faculty for a quarter of a century and even after his resignation as Dean continued his interest in the University as a Governor until his death in 1893.

The Law Faculty under Dean Abbott progressed steadily. Early in his regime there were thirty students; by 1877 there were seventy-eight. But towards the end of the century fewer students took the course. In 1886 the number dropped to fifteen. Deans followed each other more rapidly — Abbott was succeeded in 1882 by Dean W. K. Kerr, he in turn in 1889 was replaced by Dean N. H. Trenholme and in 1897, but only for part of a year, L. H. Davidson directed the affairs of the Faculty. Dean Trenholme was the first full-time Dean this became possible as a result of an endowment by McGill's generous benefactor, Sir William C. Macdonald. At the turn of the century Professor F. P. Walton, an outstanding legal scholar from England who later went on to brilliant success in Egypt, was appointed Dean.

For the greater part of the first half of the present century the Faculty has had a full-time head. Dean Walton retired in 1913 to be succeeded, but only for a year, by Chief Justice Sir Charles Peers Davidson, after which he in turn was succeeded by another outstanding English scholar, Dean R. W. Lee. When Dean Lee retired Chief Justice R. A. E. Greenshields for three years headed the Faculty and then in turn two comparatively recent graduates of McGill's Law School, Professor Percy E. Corbett until 1936 and Professor C. S. LeMesurier have devoted their whole time to their office of Dean of Law at McGill.

In the earlier days of the Law Faculty its students in large part came from rural Quebec, but in recent years most of them have been residents of the Montreal district. From the start the law students have been almost entirely English-speaking and French-speaking Canadians of Lower Canada, the natural emphasis in the legal training at McGill on the French civil law applying, in the Province of Quebec not being conducive to attract postgraduate students from other parts of Canada, the United States or Britain where the English common law rules. French-speaking

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LAWYERS IN POLITICS

By HONOURABLE BROOKE CLAXTON, D.C.M., K.C., M.P.,
Minister of National Defence
Member for St. Lawrence-St. George

The fact that far more lawyers take an active part in the political life of a country than do the members of any other occupational group has been particularly evident in Canada. At the present time 26 of our 81 Senators are lawyers. In the Commons lawyers represent slightly less than a third of the membership. Exactly half of the present Federal Cabinet are graced with the title King's Counsel and the proportion has often been higher. Since Confederation eigtht of our twelve Prime Ministers have been members of the Bar.

It has been suggested that this predominance of one profession is not a good thing, that the responsibility of government should be shared more equally by other groups. This cry has been notably raised by business. Shortly before the first war, many in England were calling for a "business government." Lord Asquith countered effectively when he remarked that the greater part of his professional career as a lawyer had been occupied in getting business men out of their troubles.

The number of lawyers in politics is not mere coincidence, for the trained lawyer requires many of the qualities and much of the experience likely to fit him for a useful and successful career in politics. Consider the nature of politics. It is the formulation and administration of rules for the conduct of society, the rules that govern the relationship of individuals and groups with each other. The lawyer's role is to interpret these rules to his clients and to secure their application and enforcement. He is more actively aware of their application and effect than is any other class of private citizen. Is it any wonder that his interest in the law often causes him to seek a position where he can help to make it? Is it any wonder that his intimate knowledge of the law and its impact on society equips him to make good law?

Moreover, lawyers as a class do not represent a vested interest or a geographical section. When they go to Parliament they do not form a bloc in support of mining or business or agriculture. Their concern has been the law and as a class they have represented the interests of all groups. They are in a better position to be objective legislators than any other body of citizens.

The lawyer deals with people and their needs and troubles. He should come to an understanding of human nature, its strength and its weakness, which is invaluable in politics. The lawyer's relationship with his client is not very far removed from the politician's relationship with his electorate in that both represent the interest and serve the good of others. Their object is human liberty and welfare, human rights and responsibilities. Both the lawyer and the politician are only able to advance their own interests if they are successful advocates of the interests of others.

Towards this end the lawyer and the politician apply common instruments. Success depends for both on the ability to express themselves clearly and eloquently in favour of others. The lawyer learns to voice his appeal so that it is ap-

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L'Avenir du Droit dans La Province de Quebec

PAR M. LE JUGE J. A. GAGNE
Doyen de la Faculté de Droit, Université Laval de Québec.

Les Canadiens Français sont profondément attachés au Droit civil français; ils manifestent ainsi leur volonté bien arrêtée de conserver leur identité et leurs caractéristiques.

Ce culte repose sur une conception rationelle de la société dont le droit est la structure organique; il est intimement lié au caractère national et fait partie de cet ensemble de traditions qui forment l'âme de la nation.

Rien n'indique que la Province de Québec veuille s'écarter de sa ligne de conduite séculaire. Au contraire, elle affirme plus nettement que jamais sa détermination de servir en restant fidèle à la tradition française.

Nous voyons clairement l'erreur de ceux qui prétendent soustraire du domaine juridique certaines activités sociales sous le prétexte qu'il s'agit de relations économiques et non juridiques. Pour définir cette erreur, Monsieur R. Savatier écrivait récemment:

"Les éléments de formation du contrat étaient autrefois donnés par la liberté humaine individuelle. Ils siègent, aujourd'hui, dit-on, dans la volonté de l'Etat. Mais l'Etat est, lui-même, au service du dynamisme dont nous avons constaté la force, et qui est né des exigences de la matière asservie. Les autorités qui interviennent au contrat, celles de l'économie dirigée, celles élues par la masse des protégés sociaux, ne sont que des meneurs de jeu, d'un jeu qui n'est pas fait par elles. Il ya a là une force extérieure à l'homme qui prend ainsi l'homme à son service dans ce qui remplace le contrat."

Il est certain que nulle part mieux que chez nous on ne résiste à la vague de matérialisme qui partout menace le droit traditionnel. Nous respectons comme il convient la tradition, nos anciennes lois et surtout notre Code civil, monument de la sagesse et de l'expérience de nos prédécesseurs. L'avenir du Droit civil tel qu'implanté de France semble donc assuré dans la Province de Québec, du moins dans sa substance.

Est-ce à dire qu'on ne devrait jamais toucher à notre Code civil? Assurément non. Les hommes et leurs institutions comme leurs moeurs sont sans cesse en mouvement, et le Code civil, recueil de législation qui régit tous les humains sans exception, doit en tenir compte.

Il a déjà subi des modifications importantes et l'on en réclame tant d'autres que certains juristes sont en proie à une grave inquiétude. Ils redoutent que, miné par tous ces changements, notre Droit perde son caractère et s'éloigne insensiblement de la tradition française.

Cette crainte n'est pas chimérique. Le sujet est trop important pour qu'on agisse à la légère. Surtout qu'on n'aille pas confier à des mains inhabiles le soin de rédiger les modifications que l'on pourrait croire nécessaires. Ce serait bientôt le chaos.

D'un autre côté, fermer les yeux sur les progrès de la science et les transformations de la société serait une erreur grave, et l'inaction prolongée demeure peut-être le plus grand danger, car tout en conservant le Code intact, elle le transformerait en un meuble démodé et inutile.

Les grands principes juridiques qui font la base de notre Droit civil, doivent, dans mon opinion, demeurer intacts. Tout au plus suffirait-il, dans certains cas, que les juges chargés d'interpréter ces textes ne s'attachent pas, comme le disait le Président de la Cour de Cassation, au Centenaire du Code, "à rechercher quelle a été, il y a cent ans, la pensée des auteurs du Code" mais se demandent "ce qu'elle serait si le même article était aujourd'hui rédigé par eux."

A côté de ces règles immuables, notre Code contient du droit arbitraire établi sous l'influence des usages courants et de la technique de l'industrie. Si l'on persiste à conserver des règles qui ne sont plus en harmonie avec l'état présent de la société, on provoquera nécessairement des injustices de sorte qu'à côté du code-relique s'édifiera un autre droit répondant aux exigences de l'heure.

On ne voit que trop les manifestations de cette tendance. Combien de lois ont été insérées dans nos statuts refondus, qui n'ont d'autre objet que de modifier certains principes du Code? Ainsi, n'est-il pas illogique que la responsabilité du propriétaire d'animaux soit définie dans le Code civil, tandis que celle des propriétaires et conducteurs d'automobiles est édictée dans un article de la Loi des Véhicules-automobiles, avec le résultat que l'on cherche encore la coordination de ces deux dispositions.

Il faudrait bien se garder, évidemment, de gonfler le Code civil du fatras du Droit administratif.

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Some Reflections On the Practice of Law

BY G. H. MONTGOMERY

Tempora mutantur et nos in illos mutamur. Certainly times have changed and the practice of law has of necessity changed with them; and the processes of evolution is still going on, perhaps more rapidly than ever.

New fields are constantly opening up to the young lawyer, so many in fact that the growing tendency is towards specialization. It must necessarily be so since no one lawyer could hope to attain a recognized standing in more than a limited number of fields.

Fifty years ago, when I was admitted to practice, lawyers were practically all general practitioners, although of course a few were recognized as preeminent in one field or another, the broad lines of distinction being between court men and office men, but within these respective lines all were general practitioners.

Litigation, or office work incidental to it, occupied the outstanding place in the average lawyer's life. By way of illustration I recall that the task of someone in the Prothonotary's office was to get out a printed tableau annually showing the numbzer of writs issued by each firm and this was supposed to reflect the importance of the firms. Their names were printed in the order of their supposed importance.

Company law did not play an important part in legal practice. You have only to look at the Reports of the Secretary of State to see how few companies were incorporated in the early days of the present century. It was regarded as of such minor importance that when I went through law at McGill the only lectures which we received remotely bearing on it was a series of lectures on corporations, delivered by a lecturer who I am sure had never incorporated a joint stock company in his life, much less drawn a Trust Deed.

His lectures were taken from Angell and Ames on Corporations, a work which even at that time claimed respect largely by reason of its antiquity. The modern Trust Company was unknown and Trust Deeds named the individuals as Trustees. The Deeds themselves were short and simple documents and hopelessly inadequate in the light of modern experience. Today Company law is in the forefront of legal practice and more and more lawyers are devoting themselves to it as a necessary incident of a commercial practice.

Patent law and Admiralty law occupy fields of their own and remunerative ones too. The development of our natural resources has introduced new and specialized fields, among which mining law stands out as a major item.

Taxation presents problems which have to be faced every day. The complexities of income taxes and excess profits taxes and the like have to be considered not only in connection with disputes which have arisen but what is even more important in the drafting of agreements and corporate organizations so that unnecessary tax liability can be avoided. To evade taxation is reprehensible but to so arrange

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CENT ANS APRES.....

by Emile Colas, B.A., B.Eng

Lorsqu'a l'automne de 1843, la faculte de Droit de McGill ouvrait ses portes aux jeunes du Bas Canada desireux de se specialiser dans l'etude du droit, une ere nouvelle commencait dans le developpement de l'enseignement universitaire de notre province. Avec des moyens restreints, l'ame de cette fondation, M. le juge W. Badgley, qui fut egalement le premier doyen, apportait ses vastes connaissances au service de la jeunessse de son pays.

Des le debut, vingt-deux etudiants de langue anglaise et de langue francaise se presenterent pour suivre les cours reguliers. C'est de ce contact permanent entre les jeunes gens des deux groupes ethniques qui forment la population de notre pays, qui a pu se developper, au cours de sa longue histoire, cette atmosphere de bonne entente qui a toujours concouru a rendre la faculte de Droit de McGill un centre si attachant dans l'elaboration lente mais progressive d'une meilleure comprehension et partant d'une plus franche cooperation. Il faut bien l'avouer, c'est de toutes les facultes, celle qui a le plus aide ce rapprochement si necessaire et dont le pays tout entier a pu beneficier.

L'histoire de la faculte de Droit a suivi, durant ses cent annees d'existence, le rapide essor qu'a pris le Canada au cours de la meme periode, alors qu'il est passe du rang de simple colonie a celui d'Etat souverain. Cette evolution n'a pu etre realisee qu'avec le concours de tous les citoyens, et la faculte de droit a su contribuer sa part des hommes qui ont ainsi apporter leurs connaissaneces au service de la nation.

Le but de cette faculte, placee au carrefour de deux civilisations, etait de concilier l'enseignement du droit civil francais avec le common law anglais. Ceci ne pouvait que favoriser la connaissance de deux cultures egalement attachantes et servir a l'elaboration d'une culture typiquement canadienne.

On peut donc affirmer que la faculte de droit a ete une grande contribution a l'enseignement universitaire au Canada et le role joue par ses diplomes eminents, dans les differentes spheres de la societe, demontre la valeur de son enseignemnt.

Mais si la faculte de Droit a eu et a encore de reels avantages intellectuels a offrir a ses etudiants, elle a malheureusement ete peu favorisee du cote materiel. Apres cent ans d'existence elle n'a jamais possede un edifice bien a elle. Elle occupa successivement une partie de l'immeuble des Arts, puis vers 1860 Burnside Hall (aujourd'hui l'Institut Fraser) et pendant vingt ans les cours furent donnes dans le vieil edifice de la Banque Molson rue St. Jacques. Au debut du siecle on la retrouve dans l'East Wing pour ensuite occuper, a la fin de la Premiere Guerre, une partie de la maison de la rue de l'Universite aujourd'hui habitee par l'ecole d'Architecture. Ce fut pour peu de temps, car elle revint dans l'East Wing jusqu'a son installation dans Purvis Hall en 1942.

En entrant dans son second centenaire, il ne faut pas desesperer de voir la faculte de Droit doter d'un immeuble qui lui est propre et serve a loger sous un meme toit ses differents services. Nous avons note avec plaisir que les dirigeants de la campagne de souscription, en faisant appel a la generosite de la population, ont enfin pense a la faculte de Droit. Il faut souhaiter que nos enfants seront plus heureux que nous et pourront suivre tous leurs cours dans un meme endroit et dans des conditions d'aeration, d'eclairage et de confort adequats.

Il faut aussi esperer qu'une place d'honneur soit faite a la bibliotheque et que l'on ne connaisse plus les plaisirs de la cave pour deterrer les documents qui sont souvent fort utiles! Avec un espace plus vaste, les professeurs aimeraient acceuillir les etudiants desireux de poursuivre des recherches en droit. Ce serait, en fait, une contribution enorme au developpement de notre systeme legal, qui est appele au cours des prochaines annees, a subir des modifications necessaires par suite des changements dans l'ordre social et economique. Des recherches ont deja ete entreprises, mais il est urgent d'encourager par des bourses un nombre plus considerable de sujets voulait consacrer un temps supplementaire pour augmenter leurs connaissances legales.

Dans un autre ordre d'idees, je tiens a remercier tous ceux qui m'ont aide dans la tache de presenter ce numero special du McGill Daily. Le Law Undergraduates' Society m'a aimablement seconde, ainsi que le comite de publicite preside par Messieurs R. Curran et J. Langelier et pour les details techniques, Ken Howard et Fred Cleman.

Il ne faut surtout pas oublier le Doyen et les Professeurs de la Faculte, ainsi que les Membres eminents de la Profession legale qui ont apporte un enseignement si eclaire dans la redaction des divers articles de ce numero. Merci enfin, a notre secretaire et notre bibliothecaire, a nos confreres et le Managing Board du McGill Daily qui, dans leur domaine respectif, ont aide a realiser ce journal.

En resume ce numero special est notre humble contribution et notre temoignage de reconnaissance a tous ces artisans, qui dans leur domaine particulier, par leurs efforts connus ou meconnus, ont contribue au cours des cent ans de son existence, a donner a la faculte de Droit de McGill la place si remarquable qu'elle occupe aujourd'hui, en cet automne de 1948.

PRESENTATION

by Raymond Crepault

The Members of the Law Undergraduate Society of McGill University take great pleasure in presenting today to the students of McGill, to the Members of the Legal Profession in Montreal and to all others into whose hands it may find its way, because of their particular interests, this special issue of the McGill Daily.

You will read somewhere else in this issue that in the Spring of 1848, a group of young students, who were reading for the Bar, petitioned the University to grant them more formal instruction and a degree in Law. The Faculty of Law of McGill was thus established a hundred years ago this year, out of what has been described as "student activity." It is one of the oldest faculties on the Campus, and the oldest law-teaching institution within the Province of Quebec.

As a first gesture of recognition of this historical mile-stone in the field of legal education in Canada, the members of the Canadian Bar Association thoughtfully saw fit last August to open their Thirthieth Annual Meeting in the City of Montreal. On September 2nd, as a first event in an official programme devoted by the University to this centenary, a Special Convocation was held on the Campus. A series of lectures by eminent lawyers and scholars were later arranged which are presently being given not only to the profession and the student body, but also to a wider public.

It was only fitting that the Law Undergraduate Society should also join in the celebration of the Centenary of the McGill Law School; it was thought that to do so through the main medium of expression of the student body at McGill, the McGill Daily, would be an appropriate association.

For us, the Law Faculty at McGill has at least two valid reasons for claiming a certain distinction of its own; it is the only Law School in Canada where an evenly-balanced cross-section of the Canadian student population may be found together, drawing at the same source of legal knowledge; it is also the only English-speaking Civil Law School on this continent north of the State of Louisiana.

Out of a total present enrolment of two hundred students, thirty per cent are French-speaking Canadians, most of them with educational background acquired in classical colleges. The Library of the Faculty, the most extensive bilingual University Law Library in Canada, contains over 25,000 volumes. Furthermore, if we glance back over the names of those who during the last hundred years have made up the Faculty, it is significant to be able to note the Abbott, the Tait, the Trenholme, the d'Arcy McGee, the Claxton listed side by side with the Laurier, the Bourassa, the Lafleur, the Mignault, the Geoffrion.

The McGill Law School carries on the process of "canadianization" that two world wars had started among the Canadian youth. It is a vital role, a unique role, and he members of the Law Undergraduate Society are proud of it. Inasmuch as lawyers are expected to become leaders in the society of their respective activities, this social and intellectual intercourse in all forms of daily endeavour, such as it exists in our Law School, carries with it tremendous potentialities; if only the process could be duplicated in each of the provinces, and the solidarity of our nation would be an undiscutable "fait accompli."

The only English-speaking Civil Law School in Canada, it has nevertheless succeeded in blending happily the logic and systematic soul of the French Law to the practical methods and approaches of the Common Law; the young lawyer from McGill knows his Civil Law, and has further been trained in personal research work, in analysis, in the use of his initiative. He has had the privilege of being taught by lawyers from France, by lawyers of Common Law background, by legal authorities from his own Province.

We are happy to see that these diversified elements, but which are all part of the pattern, have been successfully transplanted in this Special Issue of the McGill Daily. It represents well, we think, the valuable texture of the McGill Law School.

We are grateful to these authorities of the University and to these members of our teaching staff who so generously accepted to contribute articles; we are equally grateful to the Chairman and members of the Special Committee of Law students which kindly took up the responsibility of "getting this issue out." The collaboration received in this connection from the permanent staff of the McGill Daily was more than helpful.

The part played by the members at large of the Legal Profession was not less substantial; the numerous articles contributed and their benevolent publicity are further proof of the close relationship that has always existed and must exist between law teaching and law practice.

May we be allowed in conclusion to hope that in the near future, substantial material improvements will take place at McGill so as to permit the dedication of a suitable building for the exclusive use of the Faculty of Law. Only through such an amelioration will McGill be able to assure the continuance of the standard and reputation that comes from one hundred years of experience in legal teaching and from these appreciable features which characterize so exclusively the Law Faculty of McGill University.

The Law as a Profession

C. G. HEWARD, K.C.
Batonnier of the Montreal Bar

The Oxford Dictionary gives two definitions of the word "profession."

The more restricted is: "A vocation in which a professed knowledge of some department of learning is used in its application to the affairs of others, or in the practice of an art founded upon it."

The wider definition is: "Any calling or occupation by which a person habitually earns his living."

The profession of the law comes of course within the terms of the more restricted definition. In fact for centuries in the English speaking world the term "profession" was applied especially to the three "learned professions" of divinity, law and medicine, and also to the military profession.

The two essential characteristics of the profession of the law, namely: a professed knowledge of some department of learning, and the application of that knowledge to the affairs of others, have had important influence upon the formation, and development in various parts of the civilized world of the orders or groups of persons engaged in the practice of the profession.

Because of those two characteristics it has come about in the course of time that the state requires of those seeking to practice the law that they have such special training and knowledge as will fit them to deal in the legal field with the affairs of others.

Lippman's admirable work on the "Good Society" cites a pronouncement in respect of the judiciary by the famous Chief Justice Coke, which applies with equal force to the legal profession.

When the King claimed the right to take away from the common law judges any case he pleased, and decide it himself, he met vigorous opposition from the Chief Justice.

The King said that he "thought law was founded upon "reason, and I and others have reason as well as the judges."

Coke's answer was that it was true "that God had endowed His Majesty with excellent science and great endowments of nature; but His Majesty was not learned in the laws of his realm in England, and causes which concern the life or inheritance or goods or fortunes of his subjects are not to be decided by natural reason, but by the artificial reason and judgment of the law, which law is an art which requires long study and experience before that a man can attain to the cognizance of it."

As a corollary to the requirements of special training, study and knowledge, the state in most countries confers on those who, having met those qualifications, become members of the profession, certain prerogatives and rights which are exclusive to the order, and imposes sanctions against infringements of those prerogatives and rights.

The legal profession in the Province of Quebec is organized on the bases of the principles indicated above.

The Bar of the Province of Quebec is not a voluntary association, it is a corporate organism created by statute (the Bar Act) with a specified structure and well defined rules governing its powers, functions, rights and duties.

No one can practice the profession of law in the Province unless he be a member of the Bar. Before he can be admitted he must have undergone a long special course of training, have obtained a degree of Bachelor of Arts or its equivalent and a degree granted by a law faculty of a recognized university in the Province, and have passed the Bar examinations required and set by the Bar of the Province.

Having that status, he and the other members of the order in the Province have the benefits of the prerogatives and rights conferred by law upon the Bar of the Province. Those prerogatives and rights are enforceable in the courts.

Under the Bar Act it is an offence punishable in the courts for any person not a member of the Bar to usurp the functions of the profession, and the act specifies many actions which, when performed by a person not a member of the Bar, constitute infringement of the law.

The General Council of the Bar of the Province of Quebec, and the Councils of the Bars of the various sections, for example: the Bar of Montreal, are entitled to institute proceedings in the courts for the protection of the privileges and rights conferred upon the order.

Another feature of the organization of the Bar of this Province, which is to be found in many but not all similar organizations in other jurisdictions, is the power given to the Bar to maintain and enforce discipline among its own members.

From the outset the Bar of the Province and the Bars of the various Sections have had power and jurisdiction to survey and control the professional conduct of their members.

The Councils of the various Sections are in effect established by the Bar Act as courts for the enforcement of the rules of discipline established by the Act and by the regulations enacted thereunder.

They are given power, after investigation and after hearing the parties, to reprimand a member, or suspend him for a stated period from the practice of the profession, or disbar him permanently. Complaints may be lodged by members of the Bar or others, or a council may itself take the initiative in the exercise of its disciplinary powers.

The fact that occasions when it is necessary to resort to such sanctions are few, having in mind the large number of practicing advocates in the Province—over 1800—is significant evidence that the members of the Bar of the Province of Quebec are jealous of the honour of the profession and of the high standard of ethics which it demands, and are zealous in maintaining them.

Le Notariat Dans La Province de Quebec

by Arthur Courtois
Secretaire, Chambre des Notaires

Dans l'ancienne Rome où la connaissance de l'écriture n'était pas le fait général, il existait diverses sortes d'écrivains publics, parmi lesquels on trouve les "notarii," ceux qui écrivaient par notes, en abrégé, les conventions des parties. Ces actes étaient rédigés ensuite au long sur des tablettes par les "tabellions." Pour qu'on leur reconnaisse le caractère d'authenticité, il fallait en outre une sorte d'enregistrement ou de publicité auprès des magistrats. Ces derniers déjà occupés par leurs fonctions judiciaires abandonnaient le plus souvent à leurs greffiers le soin d'enregistrer les actes.

Dans la confusion qui suivit la chute de l'Empire, les divers magistrats et greffiers, plus tard les divers suzerains, se disputaient les fonctions notariales ou le droit d'y nommer des titulaires. Saint-Louis, au 13e siècle, réserve ce droit au Roi de France. Avec le temps on vit paraitre: les **notaires**, rédigeant en petite écriture l'original ou **minute**; les **tabellions**, délivrant des copies en grosse écriture, appelées **grosses**; les **garde-notes**, chargés de la conservation des actes; les **garde-scel**, autorisés à y apposer le sceau royal.

Enfin, Henri IV, au 16e siècle, réunissait ces fonction en la personne d'un seul officier, le **notaire royal.**

Telle est l'origine de cette noble profession et de ses fonctions essentielles. Les notaires existent dans tous les pays d'origine latine, la France, la Belgique, l'Espagne, la Suisse, l'Italie, et ceux de l'Amérique du Sud.

A l'origine de la Nouvelle France, le role de notaire futé, comme dans l'antiquité, par les greffiers. Puis, apparaissent les notaires royaux, qui avaient juridiction générale dans toute la colonie. A coté, on trouve les notaires seigneuriaux, nommés par les seigneurs ayant droit de haute et de basse justice, avec juridiction dans la seigneurie seulement. Il n'y eut jamais d'avocat sous le régime francais.

Lors de la conquête, les notaires furent maintenus dans toutes leurs prérogatives. Les proclamations des gouverneurs qui les consacrent dans leur office, sont même très élogieuses à leur sujet.

L'organisation actuelle remonte à 1847, alors que trois chambres des notaires furent créées, à Québec, à Montréal, et aux Trois-Rivières. Bientôt, d'autres districts furent pareillement dotés. Enfin en 1870, toutes les Chambres de district furent supprimés et remplacées par la Chambre des Notaires de la province de Québec, celle-là même qui existe de nos jours.

Formation du Notaire

Le notaire, dans la province de Québec, est un homme de loi, un spécialiste du droit, tout comme l'avocat. On dit couramment que le Barreau et le Notariat sont deux professions soeurs.

Le notaire recoit la même formation que l'avocat. Tous deux doivent d'abord avoir le titre de B.A., c'est-à-dire posséder la vaste culture générale que donne le cours classique. Tous deux doivent ensuite suivre un cours complet dans une faculté de droit reconnue et y obtenir au moins le diplome de bachelier (LL.D.), encore mieux la licence (LL.L.). Plusieurs notaires sont même docteurs en droit (LL.D.) Dans nos universités, l'étudiant en notariat suit les mêmes cours que l'étudiant en droit; il a les mêmes professeurs, il passe les mêmes examens.

Il n'y a qu'une différence dans l'orientation de la procédure. Cela est nécessaire, puisque l'avocat appliquera le droit plutot devant les tribunaux, tandis que le notaire s'occupera de la rédaction des actes, des affaires de successions et de famille. Pour ces motifs, l'enseignement théorique de la procédure est le même pour tous, mais les exercices de la pratique ou de la rédaction sont différentes.

Le notaire est donc un juriste au vrai sens du mot. On peut dire que la profession légale dans le Québec se divise entre avocats et notaires, un peu comme la profession médicale se divise entre médecins et chirurgiens. Une autre comparaison peut être tirée du système anglais, où l'on trouve en effet le **"Barrister"** dédoublé en **"Attorney"** et **"Sollicitor."** Le notaire, c'est, à peu de chose près, le sollicitor de le **Common Law.** C'est pour cette raison que le notariat fait partie de l'Association du Barreau Canadien.

Comme on le voit, il est souverainement injuste, pour ne pas dire injurieux, de confondre le notaire du Québec avec le **Notary Public** des Etats-Unis ou des autres provinces, qui n'a comme tel aucune formation légale et très souvent aucune culture générale. C'est pour cette raison que depuis 1933, les notaires de Québec ne s'intitulent plus **notaire public** en abréviation N.P.) mais simplement **notaire.**

Role du Notaire

On concoit qu'avec une telle formation, le notaire soit capable de rendre de très grands services. Voici son role principal:

Les fonctions notariales

C'est alors que le notaire agit en qualité d'officier public, avec mission "de rédiger et de recevoir les actes et contrats auxquels les parties veulent ou doivent faire donner le caractère d'authenticité attaché aux actes de l'autorité publique, pour en assurer la date, en conserver le dépot, en délivrer des copies ou extraits." (Code du Notariat, art 5).

Rédiger les actes. Les parties expliquent ce sur quoi elles veulent se mettre d'accord. Il appartient au notaire de donner à ces conventions la forme légale et de les transcrire avec une grande fidélité. Il doit encore expliquer les conséquences de l'acte, en s'abstenant de toute pression. Cette situation le constitue, par le fait même, conciliateur entre les parties qui ne s'entendent pas tout à fait.

Recevoir les actes et contrats. Les consentements des parties se donnent en présence du notaire pour qu'il en soit le témoin officiel. Elles signent le document devant lui et il le signe aussi. Il atteste ainsi le fait essentiel de toutes conventions, l'accord des volontés.

Donner le caractère d'authenticité. Est authentique toute chose sur laquelle on possède la certitude. Le fait que le notaire rédige l'acte et recoit les consentements en sa présence procure cette certitude. L'acte authentique est donc celui qui est certain, celui auquel on peut se fier.

Un acte sous seing privé n'est une preuve que s'il est admis par les parties litigeantes. Au contraire, l'acte authentique fait preuve par lui-même prima facie, tant qu'on n'a pas réussi à prouver, par une procédure spéciale (l'inscription en faux) qu'il a été l'oeuvre d'un faussaire.

En assurer la date. La date d'un acte est un des éléments les plus importants. Que de fraudes sont possibles tant dans le domaine privé que dans le domaine public, en faussant la date d'un document! Aussi, aucun document sous seing privé ne fait preuve de sa date. Seul l'acte authentique, parce qu'il a été daté par le notaire, possède une date certaine.

En conserver le dépôt. Un document aussi précieux que l'acte notarié doit être conservé. Au lieu de l'emporter avec elles, les parties sont tenues de le laisser à la garde du notaire, qui en devient le dépositaire officiel. Dans une voûte à l'épreuve du feu et de l'humidité, où personne autre que lui et ses clercs n'ont accès, le notaire y place, numérotés par ordre chronologique, tous les actes qu'il a recus. Il en tient un répertoire ou liste, indiquant le numéro de l'acte, sa date, sa nature et le nom des parties. Pour faciliter les recherches, il tient de plus un index alphabétique des

(Continued on Page 7)

Lawyers Airing Their Minds

L'Organization du Notariat Dans la Province de Quebec

by Dominique Pelletier
President de la Chambre des Notaires

Au Canada Francais le notariat est l'une des plus vieilles institutions. Dès les débuts de la Colonie il y eut des notaires alors que le Conseil Souverain refusait d'y laisser établir des avocats.

Sous le régime anglais, après la conquête, les notaires sont maintenus ainsi que le droit civil francais et sa survivance est intimement liée dans le passé au maintient du Notariat comme elle le sera dans l'avenir.

Le notariat est une profession parfaitement organisée par les lois de la province de Québec qui en assurent l'existence, l'avenir et l'indépendance.

N'est pas notaire qui veut chez nous. Pour l'être il faut remplir toutes les conditions imposées par la loi et dont la Chambre des notaires est juge.

La formation du futur notaire est de beaucoup la plus poussée de toutes celles exigées par les autres corps professionnels. Elle doit être classique, philosophique et juridique. Nul aspirant à l'exercide ne peut être admis s'il n'a pas fait les études littéraires, scientifiques, philosophiques et juridiques exigées par la loi et de plus s'il n'est Bachelier ès arts et ensuite au moins Bachelier en Droit d'une université de la Province de Québec.

Admis à l'exercice de sa profession le notaire est non seulement un juriste mais il devient et demeure un juge "de juridiction volontaire." Il doit donc être préparé, comme il l'est, à remplir ce role, puisque de par son état il sera placé entre les parties à ses actes et devra servir d'arbitre entre elles et rendre impartialement justice à chacune.

Organisation du Notariat

Les notaires forment dans le Quebec un corps professionnel connu comme étant "l'Ordre des Notaires." Cet ordre est représenté et gouverné par la Chambre des Notaires qui est une corporation civile ayant tous les droits et privilèges nécessaires et utiles pour arriver aux fins pour lesquelles elle existe.

Ce sont les members de l'Ordre qui cuxmêmes tous les trois ans élisent parmi eux leurs représentants à la Chambre des Notaires au nombre de trente-huit pour toute la Province. La Chambre elle-même tient une fois l'an une session générale et nomme, à sa première session de chaque triennat, outre son président, son vice-président, son syndic et autres officiels, un conseil composé de cinq de ses membres, dont son Président, qui en dehors de la session annuelle est chargé de l'administration, de la discipline et des affaires urgentes de la profession. Ce Conseil, durant les vacances de la Chambre, possède tous les pouvoirs de cette dernière sauf quant aux examens des aspirants, à l'admission à l'étude ou à l'exercice de la profession. Il agit comme conseil disciplinaire à l'exclusion de tous autres y compris le Cours de justice.

Le Syndic de la Chambre est le gardien de la discipline des notaires. Il doit être lui-même membre de la Chambre des Notaires et il est, devant le conseil, le Procureur public ou encore la parti poursuivant au nom du corps professionnel contre tous violateurs des lois règlementant la profession.

Deux officiers permanents choisis parmi les notaires en exercice nommés selon bonne conduite et n'exercant plus leur profession dès leur nomination, le Secrétaire-trésorier et l'Inspecteur des greffes des notaires, sont aux services de la Chambre des Notaires et des members de l'Ordre.

Le Secrétaire-trésorier, outre ses fonctions de rédacteur des délibérations de la Chambre des Notaires et de son Conseil et de gardien du trésor, est le chef du bureau de la Chambre situé au Palais de Justice de Montréal, sert d'agent de liaison entre le public et la profession et entre cette dernière, ses membres individuellement et la Chambre ou son Conseil. Il est aussi l'officier spécialement chargé de la taxation des comptes d'honoraires ou mémoire de frais de notaires envers leurs clients. En un mot il est la cheville ouvrière de toute l'organisation professionnelle.

L'Inspecteur des greffes a la surveillance de l'étude de chaque membre de l'Ordre. Cette surveillance s'exerce sur la tenue du répertoire des actes, de son index, sur la signature des actes notariés, leur garde et leur conservation. De plus l'Inspecteur vérifie la comptabilité "en fiducie" que chaque notaire est obligé d'avoir et de tenir pour des dépots d'argent et de valeurs faits par ses clients. Enfin l'inspection porte sur la voûte ou coffre-fort et la tenue matérielle des études des Notaires.

Nous avons là un court résumé de l'organisation de la profession de Notaire qui donne cependant une idée de toutes les précautions prises pour son bon fonctionnement et assurer au public la parfaite exécution des devoirs des notaires à son égard. N'oublions pas en effet que la profession notariale n'existe qu'en regard des services qu'elle est appelée à rendre au public et, de fait, lui rend avec une conscience professionnelle digne de la lourde charge que lui a confiée le Législateur.

Role Social du Notaire

Le notaire vraiment digne de son nom et de son état doit en plus des fonctions que lui confie la loi de rédiger et recevoir des actes authentiques, de les conserver, de diriger sea clientèle dans ses affaires, et lui expliquer la loi, se faire le confident et conseiller de ses semblables, défendre la paix des familles, se constituer l'arbitre et le conciliateur entre les parties qui se présentent devant lui et conserver entre elles l'harmonie et la paix. C'est son devoir de rappeler à ses clients que s'ils ont des droits ils ont aussi des devoirs envers leur prochain, envers la société et envers l'autorité établie.

Tout bon notaire se fait un point d'honneur de protéger le faible contre le fort, et à cette fin, n'attache pas plus d'importance à ses honoraires qu'au service à rendre d'abord à ceux qui, de confiance, viennent à lui pour être protégés, aidés et souvent même chercher la consolation dans leurs malheurs.

Servir: voilà le mot d'ordre du notaire. Oui, servir sa clientèle, son prochain, la société, de toutes ses forces, avec toute sa science et surtout de toute sa volonté et de tout son coeur doit être l'idéal de sa vie professionnelle. C'est en servant le public que le notaire en conservera l'estime et le respect et assurera non seulement son avenir personnel mais celui de sa profession.

C'est avec plaisir, en ma qualité de président de la Chambre des Notaires de la Province que j'ai accepté d'écrire ces quelques lignes à l'occasion du Centenaire de la Faculté de droit de l'Université McGill qui a donné la formation juridique à mes confrères les notaires de langue anglaise de Montréal et de la province pour qui, comme tous mes collègues, j'ai une grande estime et haute considération.

Reconnaissant tous les services rendus à notre pays par la faculté de droit de l'Université McGill je lui offre au nom du Notariat toute notre gratitude et aussi nos meilleurs voeux pour l'avenir.

The Lawyer as a Writer

By G. V. V. Nicholls
Editor, The Canadian Bar Review

Stephen Leacock, one of the most beloved of McGill teachers, advised the beginning writer to remember that "Writing is thinking." Writing means, he said in effect, to think worthwhile thoughts and to put them into words that will convey them to the reader. It is in this broad sense that I want to say something about legal writing.

We have had in Canada many brilliant forensic lawyers and many outstanding chamber-counsellors, as Richard Steele called them; but we have had too few lawyers who thought constructively and originally about legal problems and clothed their thoughts in compelling words. At this moment we are contributing markedly less to the advancement of law than Great Britain, the United States or France, even allowing for the numerical differences in populations. This lack of law writers is bad for Canada and, at a time like the present, may also be fatal to the legal profession as we know it.

It is trite to say that we live in a time of rapid and profound change. The liberal and nationalist revolts of 1848, the year of the founding of the McGill Law Faculty, may have been more spectacular than the social evolution in which we are well advanced by 1948, but the results of the 1848 revolts were less far reaching for the law and lawyers. The central fact in 1948, from which most of the fundamental changes in the approach to law stem, is the widespread conviction that the lot of the common man must be improved, as it is being improved; the man in the street, if he is not already king, is on the point of being crowned.

Social changes are inevitably being reflected in the law or, to put it another way, are being brought about by law. One need not be advocating a political platform to recognize that law is tending towards collectivism and away from individualism. During the last hundred years, for example, there has been a vast increase in social legislation: factories acts, workmen's compensation acts, minimum wage acts, unemployment insurance acts, old age pension acts, housing acts, to name a few. And because the ordinary courts of law were ill-equipped for the purpose, the interpretation of these statutes, and the settlement of disputes under them, tended to be entrusted to special tribunals — the so-called administrative or quasi-judicial boards — applying a mixture of law and of policy. At the same time similar forces have been at work in the traditional branches of law, contracts, delicts and the rest. Although the lawyer can no more stop the trend than Canute could stop the tide, it is essential that he should understand its significance and channel it along sound lines. For this, scientific and organized study is necessary, of a sort hitherto unknown to Canadian lawyers.

The status of the lawyer himself is changing profoundly. Whatever may be his attitude in Quebec, circumstance conspire in many parts of Canada to make him think of himself as a business man rather than as a member of a noble and learned profession. All over Canada a proportionately smaller part of his time is spent before the courts and a proportionately larger part in negotiation, conciliation, drafting and what the Americans call policy-making. More lawyers than we guess no longer engage in private practice at all, but hire out their services to governments and corporations. And all the while the conservative legal profession finds itself increasingly misunderstood and unpopular.

As the great Roscoe Pound said recently, an all-round development of a body of law must be the work of legislators, judges, and jurists or law writers. Legislators are responsible of course for the new social legislation, but its detailed application must be worked out by others in the crucible of experience, and legislators do not always stop to consider the implications of their enactments. Towards the development of the civil law legislators have contributed little; here what advances there have been of recent years in Canada have been largely the work of judges. But the scope of the judge is necessarily limited, even in Quebec where he is not bound by precedent. His primary task is to apply the law in a specific dispute between parties who are before him; in a recent appeal to the House of Lords, Lord Macmillan put the point in this way, "Your Lordships task in this House is to decide particular cases between litigants and your Lordships are not called upon to rationalize the law of England." If the judge works reforms, he does so, as it were, by stealth. It is to the law writer, I am convinced, that we shall look increasingly to equip the profession to meet the needs of a changing society.

What, specifically, am I advocating? Certainly I should not wish to be interpreted as suggesting that every lawyer ought to be a Pothier, a Blackstone, a Holmes or a Mignault. But words are every lawyer's stock in trade, and persuasion his object, and every lawyer should strive to acquire a technical competency in the use of language. For centuries lawyers have been notorious for their clumsy handling of the very things that are more important to them than to any other profession, words; it has made them the traditional butt of the satirist. The Canadian lawyer cannot escape the same criticism, though a McGill graduate who has had a certain experience of such matters may be allowed to say that it is less true of Quebec lawyers than some others. A modest acquaintance with the technique of writing, then, is of practical use to every lawyer, whether he enters private practice or the service of a government or corporation.

Nor should I be taken as crusading for any revolutionary change in the legal profession. There is a place within its widespread arms for men of various talents and interests. The law writer's place in the triumvirate who are responsible for the development of law will soon be recognized in Canada, because it must be recognized. Canada has already reached political maturity as a nation and it is inconceivable that she should continue for long to be dependent upon others in a field so vital to society as the law.

The intellectual climate of a country must be conducive to the making of scholars and researchers before a school of juristic writing can be expected. For the common, and it has always seemed to me naive, distinction drawn between the "academic" and the "practical" we might substitute a realization of the valuable contribution that scholarship and research can make to the science of law, as they have made in the past to medicine and the physical sciences. In the creation of such an intellectual climate the practising lawyer can help.

On Being A Law Librarian

With the Faculty of Law in its one hundredth year, it seems safe to assume that its Library is almost as old. The Librarian, however, is considerably younger.

I graduated from Library School with a determination not to work in a Law Library. It was much too difficult a subject for anyone not of superior intelligence and without years of experience. I was soon to learn that any library is first of all a library, and that its subject can be learned "on the job." With my original aversion to Law Libraries thus dispelled, I was able to take advantage of the opportunity to work in McGill's Law Library.

Far from regretting the decision, I find that I enjoy the work. Each lot of new books I classify adds to my legal vocabulary. This means not only acquiring new words, such as hypothecs which has nothing to do with druggists, but also giving a more specific meaning to many words in common use.

Much of the technical work of the library must be done during the summer months, since service to the law students is our first concern during the academic year. Each Fall we look forward with curiosity to meeting the new students, and every Spring we are sorry to see the last of the graduating class. Briefcase examination an exclusive feature of the Law Library has revealed more lunches than stolen books, but the desired effect of cutting down losses has been achieved. A Library Representative elected by each Year provides a student committee to act as liaison officers between the students and the library staff.

Of course it takes more than one person to manage smoothly a library of some 25000 volumes serving over 200 students. Miss Grace Hamlyn, Librarian of Purvis Hall, administers the Law Library as well as the School of Commerce Library; and the able assistance of Mrs. Patricia Murray at the circulation desk makes the continuity of service possible.

The Law collection has been housed in several places previous to its present temporary location, and the bindings of many valuable and very old volumes have been damaged in the frequent moving. With the hoped-for success of the current McGill Fund campaign, the wish expressed by both staff and students of the Law Faculty in their frequent remark "when we get our own building," may soon be realized. This would mean new quarters for the library, too, than which there is nothing a librarian likes better, because new quarters usually mean larger quarters. Not only is the book collection constantly growing, but the increased enrolment in the Law Faculty has rendered present Reading Room facilities inadequate.

These overcrowded conditions, not an exclusive feature of the Law Library, have necessarily restricted borrowing privileges, but not the reference service. We still interpret "D.C.A." for first year students and provide the text of a treaty needed for a master's thesis.

RUTH CORDY,
Assistant Librarian of Purvis Hall, in charge of the Law Library.

Now! Now! Professor! This is OUR Secretary

(Pierre Champagne.)

One Justice or Two?

By GERALD LE DAIN '49

"Equal and exact justice to all men of whatever state or persuasion. . ."—In Thomas Jefferson's time those words expressed the hope of free men. Today, instead of being a proud boast, they would seem to mock us. Almost a century and half later we are making serious collective efforts in Canada to meet the social problems of old age, public health and unemployment, but we have done little or nothing about making justice more accessible to the poor. That a citizen should be unable to obtain justice for lack of financial means is a reproach to the legal profession. It is a reproach to the social order. At a time when men everywhere are examining anew their professions of faith, it would be well for lawyers to consider the great principle of equal justice.

Justice is of right and not of grace; it should be, with daily bread, a heritage of the citizen. Just as it may not be bought or sold, so it should not be a matter of charity. Yet the means of obtaining justice, the legal process, is complicated, slow and costly. Modern urban and industrial life has multiplied legal problems and causes for litigation. It has unfortunately created them for the poor as well as the rich. Whether the problem is a criminal charge, a landlord-tenant dispute, a domestic relations matter, a wage or damage claim, or a debtor's difficulties, the need of the poor for legal aid is acute.

The citizen who finds himself in court without adequate legal advice and representation has the form of justice, perhaps, but hardly the substance. The laws permitting the needy to plead "in forma pauperis" have greatly reduced the cost of legal proceedings for, the indigent litigant, but if he is unable to obtain the services of a lawyer his "day in court" may be little more than a tragicomedy.

Legal Aid, as a branch of social service attempting to redress the inequality before the law by providing needy persons with the services of an attorney, is almost unknown in Canada. Legal Aid organisations have existed for some time, however, in the United States, England and Western European countries. After the New York Legal Aid Society was founded in 1876, the American movement expanded steadily until there was a society or bureau in every major centre. In 1923 a National Association of Legal Aid Organisations was established to co-ordinate the activities of the local groups. Legal aid has been administered in England by the Law Society since 1926. In France and the Scandinavias public legal aid machinery has functioned successfully for many years.

Montreal is in a position to pioneer the belated legal aid movement in Canada. The Montreal Legal Aid Bureau, incorporated in 1930 "to provide the means free of charge for legal assistance in all its forms to persons who are impecunious and who are in the opinion of the Board of Directors of this corporation or any of its competent representatives in need of legal advice, counsel or action", is believed to be the only organisation of its kind in the Dominion. As a voluntary association, financed by the community chest, it has, under the able direction of its Executive Secretary, George H. Corbett, done admirable work within the limits of its financial resources. Unlike the usual legal aid bureau, which has been described by John S. Bradway, American legal aid authirity, as "a law office like other law offices, except that it sends out no bills and that it has a particular class of persons for clients, namely the poor people of the community", the Montreal Legal Aid Bureau has no full time attorneys in the office, but retains outside counsel when necessary for its deserving cases. This arrangement is due simply to a modest purse, a condition which gives support to the growing recognition in recent years of the fact that legal aid is too big a social responsibility to be left to private charity. In the United States it is actively supported and even administered by local bar associations. Elsewhere, as in the Scandinavias, legal aid is maintained by public funds. The British government now proposes a comprehensive scheme to be financed by the state and administered, as in the past, by the Law Society. This plan, based on the Rushcliffe Report, is probably an effective compromise between the operation of legal aid by partisan social agencies on the one hand and its operation by government departments on the other. Inherent in either extreme are obvious dangers to the promotion of equal justice.

Of special interest to law students are the legal-aid clinics conducted by several American law faculties. A counterpart of the medical student's clinical training, they provide the senior law students who staff them with valuable practical experience. Generally they are supervised by the local bar association and financed by the community. A fourth year, to be devoted to practical work, has been added to the law course at McGill. It is difficult to think of a better program for it than the operation of a legal-aid clinic. Mr. Corbett, who is largely responsible for legal aid in Montreal, freely admits the limitations of the social agency type of organisation, and he is strongly in favor of the law school taking over the work. It would be vital, of course, to the success of such a legal-aid clinic that it operate in close co-operation with social service. Such an association is not completely withough precedent in Montreal, for at one time second year law students at McGill used to assist Mr. Corbett in the Montreal bureau. There is no reason why, given the active support of the Montreal Bar, a legal-aid clinic could not be established by the McGill law faculty to meet the needs of more widely distributed legal aid in Montreal and practical training for law students. The subject of legal aid in Canada has never passed the report stage of Bar Association meetings. Some firm action on this question would do much to increase public confidence in the profession. Regardless of what action is taken, serious consideration should be given to the urgent need for a Public Defender to represent indigent accused.

At a time when other countries are attempting to devise the best type of legal aid, may we not leave it in doubt as to whether we subscribe to the principle.

LAWS OF MOSES

The great Jewish historian and lawgiver Moses is considered the author of the first five books of the Old Testament, collectively called the Pentateuch. The laws herein given, with the Ten Commandments, form the basis of all moral and legal codes.

Lawyers in the Making

Some Distinguished Graduates Of the McGill Law Faculty

By MELVILLE W. SMITH, '49

One hundred years ago the Faculty of Law of McGill University was established with the Honorable Mr. Justice Badgley as its Dean and only a handful of students. Since then over eight hundred have been graduated, among whom have been many of the greatest lawyers and jurists in the history of Canada.

Among the Faculty's first graduates, and later one of its most distinguished, was John Joseph Caldwell Abbott, who received his B.C.L. in 1854. Three years later he succeeded Judge Badgley, as Dean, a position which he held for 25 years; after his resignation he served on the Board of Governors until his death.

John Abbott became a recognized authority on commercial, bankruptcy, and constitutional law and one of the first great corporation lawyers of Canada. For 40 years he practised his profession, and his contemporaries regarded him as the outstanding lawyer in the Dominion. For three months he served as a deputy judge of the Superior Court, but he declined a chief justiceship.

Abbott numbered among his clients the financial giants of the day, such as Sir Hugh Allan, Duncan McIntyre, and the future peers, Lord Mount Stephen and Lord Strathcona.

In the field of railway-law, John Abbott ranked with the best lawyers in North America. He aided in the promotion of the Canadian Pacific Railway, and was the sole author of its charter which is considered to be a magnificent document. He also drafted the Insolvent Act of 1864, which became the foundation of Canadian Jurisprudence in bankruptcy matters, and introduced a bill for the collection of judicial and registration fees by means of stamps.

In 1887 he became a Senator and in 1891 the leader of that body. Twice he was mayor of Montreal. During his term of office he consolidated and amended the City's charter almost entirely by himself.

His capacity for work was prodigious. In his lifetime he was director, chairman of the Board of Directors, or president of a half score of companies. In Parliament he sat as Chairman of the Committee on Banking and Commerce and was on the Committee on Railways, Canals and Telegraph Lines.

In 1891 at the age of 70 he became Prime Minister despite the fact that he was in poor health. However, in 1893, he was obliged to retire.

Honors and titles came to him from every side. When he died he was Lieutenant-Colonel the Honorable Sir John Joseph Caldwell Abbott, K.C.M.G., P.C., Q.C., D.C.L.

Nevertheless, Sir John was never happy in his political career, and preferred his chosen profession — the law. He once remarked, "I hate politics, I hate notoriety, public meetings, public speeches, caucuses, everything to do with politics, except doing public work to the best of my ability." Happily, Sir John Abbott possessed a stern sense of public duty, and because of this, he made an outstanding contribution to the early development of Canada as a nation.

The McGill Law Faculty enjoys the double distinction of having furnished two of Canada's Prime Ministers. The second was Sir Wilfrid Laurier, who had been a student when Sir J. J. C. Abbott was Dean of the Faculty.

Laurier was graduated from McGill in 1864, and as early as then, on delivering the valedictory address for his class, he uttered an appeal for sympathy and union between the French and English races as the secret of the future of Canada. For two years he practised law in Montreal and then for a time was editor of "Le Defricheur," a newspaper at Arthabaska.

Later, he successfully ran for election to the Local Legislature. His maiden speech before the House, excited great interest because of its literary qualities, and his own attractive manner and logical methods.

From then on his star rose. In 1874 he was elected to the House of Commons, and in 1887 he became Prime Minister, the first French Canadian ever to do so. From the first he showed unusual capacity for leadership and won great popularity even in the English-speaking provinces. Everywhere Laurier went he captured attention by his charm of manner, his fine command of scholarly English, and his genuine eloquence. He was generally regarded as the foremost debater in Parliament.

Some of the major features of his administration were the despatch of Canadian contingents to South Africa during the Boer War, the assumption by Canada of the imperial fortresses at Halifax and Esquimault, and the division of the North-West Territories into the provinces of Alberta and Saskatchewan. Like Sir John Abbott, Laurier participated in pushing the Grand Trunk railway to the Pacific. It is a signal honor that two of McGill's earliest sons should have done so much toward spanning the continent.

When Laurier attended the diamond jubilee of Queen Victoria, he received the grand cross of the Order of the Bath.

Laurier was an individualist rather than a collectivist. Thus, he opposed the intrusion of the state into the sphere of private enterprise and showed no sympathy with the movement for state operation of railways, telegraphs, and telephones or anything of a like nature.

Although McGill has produced great statesmen, she has in no wise failed to give as good an account of herself on the bench. In fact, more than 45 judges have come from McGill, 30 of whom were on the Superior Court bench alone, and three of whom, Mignault, Girouard and Thibaudeau Rinfret, sat in the Supreme Court of Canada.

No history of McGill's faculty of Law would be complete without reference to Pierre-Basile Mignault, eminent scholar and jurist One could say of Mignault that he was the law itself, so much did the spirit of justice and equity so completely possess him. During his long and fruitful career he always devoted his energy, his talent and his faculties to the preservation and purity of the law of Quebec. It has often been said that he was our greatest Canadian jurist.

Almost from the moment of his admission to the bar in 1878, he began to devote himself to writing on the law. Although he produced many works, his 'chef-d'oeuvre' remains his 'Traite de droit civil' in nine volumes, a masterly commentary on the Civil Code of Quebec. This work appeared at a welcome moment, for until then no complete commentary was in existence, and this is so even today.

In 1912, he joined the staff of the McGill Law Faculty. On his appointment to the bench of the Supreme Court of Canada he resigned his post as professor, but continued his connection with the university as an occasional lecturer in Legal Ethics.

By 1918, his fame was known far beyond the boundaries of Quebec, and in that year he was made a member of the Joint International Boundary Waters Commission.

At the age of 75, he resigned from the Supreme Court of Canada and resumed the practice of law.

Mignault, was the impassioned defender of the law of Quebec, and fought against any admixture of the law of Quebec and the common law. He was slow to accept new theories which had not been tested by time. Thus, he refused to admit in their entirety the theories of unjust enrichment and abuse of rights.

Several universities, including the University of Paris, conferred on him the degree of Doctor of Laws, and on the 16th anniversary of his admission to the profession, the Bar of Montreal paid tribute to him.

Another distinguished graduate of McGill was the Right Honorable Charles Joseph Doherty who was admitted to the Bar in 1877. In 1891, he was created a judge of the Superior Court for the district of Montreal. There he served for 15 years. In 1908, he was sent to Parliament as member for Ste. Annes. In the next 13 years he held the Cabinet post of Minister of Justice from 1911 to 1921. Mr. Justice Doherty also represented Canada abroad as a Canadian delegate at the Paris Peace Conference in 1918, and at the assembly of the League of Nations in 1920; in both cases his perfect grasp of French made him an excellent choice as Canada's representative.

Eugene Lafleur was to the legal profession what Mignault was on the bench. Lord Dunedin once remarked that upon purely legal principles Eugene Lafleur was of a stature equal to any of the great leaders in England and Scotland since the days of the Chancellorship of Lord Cairns!

For Eugene Lafleur, his work was an art and not merely a business. In his own words, he loved "the smoke of the battle." Every case to him was a real test of his talent, and he accepted the challenge with zest.

He had exceptional talents, in that he could reach the core of a matter through "masses of immaterial facts and labrynths of sophistry." Furthermore, he had a rare mastery of the great arts of selection and condensation. Although his briefs were voluminous and comprehensive to the last detail, he usually appeared in court armed only with a few pages of notes, but therein lay the gist of his case in perfect, syllogistic form.

Time after time he could give the judges the real problem at issue in a matter of minutes, although the brief might comprise several volumes. His cases were almost always won in his study; they needed only to be presented in his own inimitable way to carry conviction and to win judgment.

Clients in all parts of Canada entrusted their cases to him, and he appeared before all the courts including the Privy Council; in the latter court he regularly appeared for over a quarter of a century.

One of his greatest traits was his complete lack of ostentation. At the peak of his career he was always the acme of courtesy to his opponents and to everyone whom he met.

His fame was so widespread that in 1911 he was appointed chairman of the International Commission to settle the boundary dispute between Mexico and the United States.

For many years he was Professor of Civil Law, and later of Public and Private International Law, in McGill University.

McGill is indeed fortunate to claim as one of its own Eugene Lafleur who, at his death in April, 1930, was the acknowledged Dean of the entire Canadian legal profession.

A colussus among Canadian lawyers was Aime Geoffrion. For 10 years he held the chair of Civil Law in the faculty. In 1920 he retired, after having devoted 15 years to the University, as professor emeritus.

No lawyer pleaded as often before the Judicial Committee of the Privy Council as Geoffrion. He made more than 90 trips across the Atlantic, four of which were made in the last year of his career.

A few of the many important cases in which he appeared are: The Alaska Boundary Dispute; the Labrador Boundary Dispute; and the case of the ship Empress of Ireland against the Storstadt. At one time or another he was director of some of the largest corporations in Canada.

In 1944, a year before his death, the University of Montreal honored him with a Doctor of Laws degree.

Among others the following deserve to be mentioned: His Excellency Warwick F. Chipman, Ambassador to Argentina; Chief Justice O. S. Tyndale of the Superior Court for the District of Montreal, Chancellor of McGill University; the Honorable D. C. Abbott, Minister of National Revenue; the Honorable Brooke Claxton, Minister of National Defence; Mr. Justice E. Fabre Surveyer; Mr. Justice J. E. Martin; Mr. Justice Norman William Trenholm; Mr. Justice Sir Charles Peers Davidson; Mr. Justice R. A. E. Greenshields; Mr. Justice William Patterson, the last two-mentioned being eminent criminal lawyers in their day; and Mr. Justice Robert Stanley Weir, author of many books on the law and the translator of O! CANADA!

Secretary's Impression

What impresses me most about the Law Faculty is its changing character which each day brings something new.

My time at Purvis Hall is spent by keeping up the Professors' correspondence, typing out drafts and memoranda, arranging appointments, selling books to students and checking their attendance sheets. Then, of course, there is the telephone — when some days I wish Alexander Graham Bell had never existed.

One of the most delightful and gracious customs instituted in the Law Faculty and enjoyed also by the Department of Economics and Political Science, is "afternoon tea." I am the "hostess" and of course experience the anxieties of all hostesses from time immemorial, "will there be enough tea? is there an adequate supply of cookies and cake? will the cups and teaspoons 'go round'." It is a completely informal affair at which the "great men" exchange their views and opinions upon many subjects of general interest, and then again upon others which are to any but themselves quite obscure. Nonetheless, these discussions if followed with interest and an attempt at understanding, reveal the fact that these "great men" are not only men of distinction and discrimination, but also thinkers of the highest calibre.

The office routine in the Law Faculty very often has its lighter sides, which sometimes prove rather embarrassing for the Secretary. For

(Continued on Page 7)

The Common Law and the Common Lawyer in Quebec

BY Professor Maxwell Cohen,
Associate Professor of Law,
McGill University.

The Common Law of England and the Code Napoleon are without doubt the two great bodies of law having the widest influence in the modern world. The French code has inspired full reproduction or substantial copying of civil law communities, while the Common Law is the law of the Anglo-American world including not only the great English-speaking states but Colonial pepoles of many ethnic and cultural origins who have come to look upon English rules, case law and legal method as a basis for their own legal orders.

In Quebec, the French code was perhaps the greatest single influence in the drafting of the Quebec Civil Code of 1866. But while the core of the private law of the Province is to be found in that code, it is sometimes forgotten how important to the legal order of this province are many fields of Common Law, particularly in matters of commercial and public law. Indeed, perhaps nowhere else in the Western world are the two systems so completely interwoven, operating not only side by side but meeting each other at many points where the civil law recognizes the authority or persuasiveness of common law rules and where civilian judges must often be able to apply non-civilian techniques in the working out of legal problems before them.

The study and practice of law in Quebec is not only bi-lingual and bi-systemal, but, equally, discloses a running dualism in methodology. For the Common Law—by the very nature of its growth as a system of reported decisions handed down by judges with wide authority to declare or "find" the law—has developed a technique that sometimes seems to vary sharply from the civilian approach. To the civilian with his code the great fields of contract, property, delicts, family law etc. have been integrated into a seemingly coherent "thought-through" system, an organic whole in which there are logical relations between the codified rules as they are set out chapter by chapter in the Code. For him the task of finding an answer to a legal problem has a kind of initial simplicity since the Code presumes that theoretically most of the answers are to be found within its own limits. By contrast the Common lawyer dealing with a problem in "contract" or "property" must rely—apart from statutes—upon unauthoritative encyclopedias, digests or text books whose summaries will direct him toward an authoritative case or cases wherein he may find rules to aid in a legal solution of the facts before him. Moreover, not only does the civil lawyer have his Code as his major point of doctrinal departure but he has, further, the conception that each judge bears an individual responsibility to determine for himself the applicable rules in the Code and the meaning of the language of the rules as all these are to be applied to the individual case requiring a decision. By contrast, the common law, built through generations of reported decisions, developed a conception of cases having authority and therefore being able to bind subsequent courts when a similar matter was before them. This baisc idea of the binding role even of the individual case, particularly when the case is a decision of a superior or an appellate court, is perhaps one of the more striking methodological contrasts as between the civil law and the common law.

But the common lawyer in examining how courts behave in Quebec observes that when a Quebec judge deals with a public law or commercial law matter his approach to facts, to decisions to authority — in a word, his approach substantively and methodologically is largely the same as that of an Ontario or Manitoba judge. Yet what is perhaps even more interesting is the observation that when a Quebec judge is dealing with a matter of purely Quebec civil law, he is often not far removed in method from the processes followed by his common law brother. That is to say that not only are the main rules of large parts of civil law and common law, in principle, more or less the same, — contracts, delicts, moveables, etc. — but the manner in which the judge deals with facts before him and applies rules to facts thus determining the specific legal consequences of specific facts, this process for all major purposes is generally alike in both systems. When one adds to this that most decisions on the Quebec Civil Code rendered by superior and appellate courts of the Province are reported and that the opinions of the appellate courts are considered a source of strong guidance if not always absolute authority for all courts, the differences between the judicial technique of both systems begin to appear far less significant than often is supposed.

While doubtless the most important difference between the judge sitting on a civil law matter and his brother applying the common law lies in the general impact of an integrated code on his approach to the "sources" of his rules, there is another feature which becomes evident in comparing common law judgments with those of the civil law, namely, the approach to facts. The respect for facts is deeply ingrained in the common lawyer, partly because of the generally empirical approach to analysis that is intellectually the fashion in the English-speaking world, and partly because to the common lawyer doctrine can only be understood in terms of the facts of a particular case out of which such doctrine may arise. For several reasons, but particularly because the theoretical rigidity of the theory of the binding precedent made it desirable to have some opposing theory to give judges a method of distinguishing precedents and thus avoid being bound, there is a great reliance upon facts and an emphasis on the relationship of fact to doctrine that renders most common law judgments not only a statement of law but a more or

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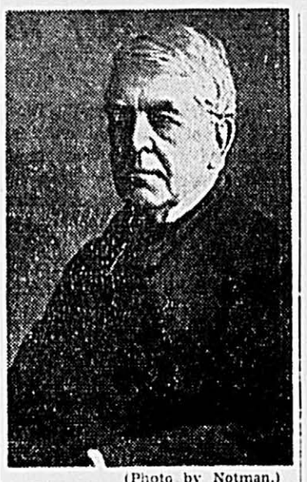
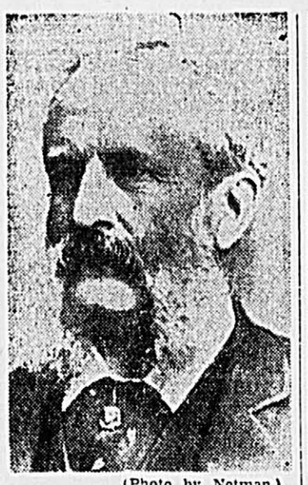
DEANS OF THE LAW FACULTY

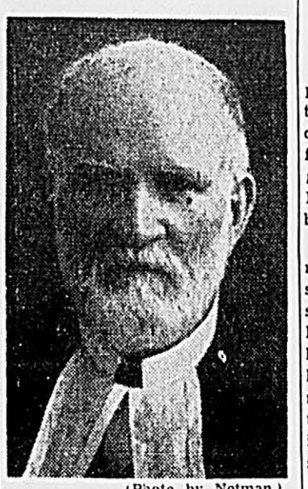


(Photo by Notman.)
JUDGE W. BADGLEY, G.C.
1848-1856

(Photo by Notman.)
SIR JOHN ABBOTT, K.C.M.G., P.C., D.C.L., 1856-1882



(Photo by Notman.)
W. K. KERR, 1882-1889



(Photo by Notman.)
N. H. TRENHOLME, 1889-1897

(Photo by Notman.)
L. H. DAVIDSON, 1897-1898

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F. P. WALTON, 1898-1913

(Photo by Notman.)
R. W. LEE, 1913-1914

(Photo by Notman.)
Chief Justice R. A. E. GREENSHIELDS
1914-1917

(Photo by Notman.)
P. E. CORBETT, 1917-1936

(Photo by Notman.)
C. S. LEMESURIER, 1936-

Towards an Original Civil Law In the Province of Quebec

LOUIS BAUDOIN
Professor of Civil Law, McGill University.

On the occasion of the centenary of the law school of McGill University, we would like to attempt to trace the broad lines of development of the civil law in the Province of Quebec, since the codification of 1866.

There is no need to underline how deep and great was the affinity, in the very early days, between the Quebec and the French Civil Codes. First of all, the mere fact of having undertaken, in Quebec a codification of the prevailing customs, whatever may have been at that time the political purpose toward which it aimed, indicates how close are the intellectual roots between the French-Canadians and the French. The need of formulating principles into precise texts, the need of systematizing principles, common to French and French-Canadian, arises from the "cartesian" spirit which English people designate as the "continental" mentality.

Further, it must be remembered, that at time of the codification, the private law sources were nearly the same in both countries, because of the common recial origin.

The commissioners nevertheless, benefitting from the French experience, very wisely borrowed from common sources, to correct the imperfections of their French model, and to make use of the progress which both French doctrine and jurisprudence had succeeded at that time in achieving since the Napoleonic codification. A trend was already visible (it impregnated some of the Quebec articles of the code) which led toward the emphasizing of the growing originality of the Quebec code. If the commissioners adopted for the Quebec code some of the principles laid down in the Napoleonic code, even though they were new law, they nevertheless set aside deliberately some others, because they were not in harmony with the manners and customs prevailing in Quebec. Such was the case for example, with the transfer of the right of ownership by the sole consent of the parties in the contract of sale; such was the case, to cite a second instance, with the notion of lesion rejected in the Quebec Code as a cause of relief in contracts between persons of age and fully capable.

The first reason for departure from the contemporary French Law was reinforced after the Cession by the infiltration of English common law, through the channel of the administration of justice and which spread gradually into parts of the private law of the Province of Quebec.

This influence is perceivable in two ways.

It has happened sometimes that a British statute has been incorporated into the civil code of Quebec; such seems to be the case for instance with the Lord Campbell's Act which has become part of the civil code under article 1056 and about the introduction of which into the code there is still some mystery.

Sometimes this infiltration occured through jurisprudence, as indicated by Mignault; the English method of construing laws and statutes have been applied in certain cases and relatively to certain problems in regard to which English common law is as far removed from Quebec civil law as it is from pure French civil law.

The preminotory symptoms of this English influence could be already perceived before the codification through commercial law, which carries with it international spirit. The influence continued after codification to a certain extent. When the legal rule or the institution concerned has its origin in the common law, such text or matter has to be construed according to its origin; it would be a nonsense, or a wrong sense (which is more serious) to construe such a text in a spirit quite different from that which gave it birth. But whenever the legal problem to be solved does not have its origin or source in a British statute, how has it been possible for such English interference to occur? Is that fact due, at least in the very early days after Quebec codification, to the insufficiency of a settled and firm doctrine and jurisprudence? It is due to the fact that certain people, because of their British origin, are naturally inclined to seek in the common law, the rules of interpretation for the solution of the raised problem, just as some others, because of their French origin, are inclined to make a constant appeal to the French doctrine?; or is it due to the fact that needs common to the province of Quebec and to the Anglo-Saxon world, have been created and have developed in such a way that courts are inclined to try to solve these problems by referring to the Anglo-Saxon technique which is after all the direct source of such creation? Whether reference be made to decisions of courts in this province, or to decisions of the Supreme Court of Canada or of the Privy Council, it may be asserted that in the very early days after codification, it became a habit in certain definite legal fields to adjudicate almost automatically according to the common law interpretation in spite sometimes of the French origin of the text and, in spite of the fact that, sometimes there was no direct affinity on the very problem concerned between French and Quebec law. It seems that such habit was so deeply embedded that it is a very hard one to break. Some distinguished minds in this province during the past twenty years have tried and partly succeeded in reacting against this tendency.

Quebec province is in regard to civil law an island on the North American continent (with Louisiana), it is situated at the confluence of two streams of civilization, the French and the Anglo-Saxon; neither one, however, has succeeded in dominating Quebec civil law. Actually Quebec doctrine and jurisprudence are constantly reacting against this prevailing tendency of adopting or even introducing methods of reasoning either of the pure French Law or of the English common law, because neither the one nor the other is in full harmony with mentality and manners of this province.

This reaction is particularly noticeable in the field of contracts where doctrine and jurisprudence are trying to set aside the common law notion of "consideration" and do not, at the same ime, and by the mere fact that they reject this common law, adopt therefore the pure French notion of "cause"; it is perceivable also in the field of civil responsibility where inferior courts discard the view of the Supreme Court of Canada of a legal liability in place of the responsibility resting on fault; it is perceivable also in regard to the contract of mandate where the English Common law doctrine of the undisclosed principal is set aside whereas at the same time the purely French doctrine of mandate is not entirely followed.

In this trend toward an original feature of the civil law of Quebec, the chief tendency seems to be to built up a purely Quebec technique. The most important problem for the jurists of this province is not so much the solution to be given to the problems concerned as its justification through a purely Quebec technique, disentangled from any foreign influence. This technique is to be derived from the Quebec Code itself or from its spirit.

This anxiety is jusifiable, then when comparing the solutions given to certain similar problems in Anglo-Saxon countries and in France or Quebec, it may be stated that these solutions are very often alike and that it is only the technique which separates the two legal systems of interpretation.

In elaborating a proper technique, the doctrine and jurisprudence in Quebec will succeed in affirming to the world, in regard to private law and for this province, what Canada as an international power has affirmed on the international plane, I mean its importance and its special character.

Private International Law in the Making

By I. G. GAZDIK
Professor of Roman Law

It is a well known fact that the various systems of private international law are, unfortunately, far from being in unanimity. We are faced with many striking contrasts between the jurisprudene of the countries in continental Europe and that of England, between the Common Law of the United States of America and the various South American Codes, not to mention the divergencies between English and American jurisprudence.

These divergencies in the systems of law are often linked with racial and national prejudices, which form the main obstacles in the achievement of uniformity.

We know, however, of three possible means by which the number of divergincies in the systems of private international law might be decreased:

The first, is the unifying influence of the Permanent Court of Justice, through its pronouncements creating respected procedures.

The second, would be to secure by international conventions the unification of the internal laws of the various States upon as many points as possible.

The third, to unify the rules of Private International Law so that a case with a foreign element shall receive the same decision irrespective of the country of trial.

The purpose of this article is not to explore all the implications of these three instruments, but merely to point out the progress which has been made in 1948 toward the unification of private international law by the new Convention on International Recognition of Rights in Aircraft.

This is not the first instance of Air Law creating uniform principles in the international field. The Warsaw Convention, signed in 1929, regulates the international carriage of persons and of goods by aircraft. It establishes and limits the liability of the air carrier with respect to passengers and consignors (shippers) and contains a number of important provisions. This Convention, which is recognized as one of the earliest attempts to achieve uniformity in private international law, has been widely accepted, thirty-three countries having signed and adhered to it to date. (Canada ratified the Convention in September, 1947.)

In June, 1948, the Assembly of the International Civil Aviation Organization approved the Convention of International Recognition of Rights in Aircraft and opened it for signature. To date, twenty countries have signed and adhered to this Convention.

The foregoing does not reveal the merits of the many years' preparatory work, which is so characteristic in this field. The origin of this Convention dates back to 1931 when CITEJA adopted the draft "Convention on the Ownership of Aircraft and the Aeronautic Register," together with the draft "Convention Relating to Mortgages, other real Securities and Aerial Privileges." In November, 1944, the Civil Aviation Conference held in Chicago (which established the International Civil Aviation Organization, with headquarters in Montreal) recommended that consideration should be given to the early calling of an international conference on private international air law for the purpose of adopting a Convention dealing with the transfer of title to aircraft, based on the above-mentioned two draft Conventions. Since that time, the draft Convention has been under constant consideration by CITEJA (Comite International Technique d'Experts Juridiques Aeriens) and, lately, by the Legal Committee of ICAO.

It would be difficult to enumerate here all the problems and implications which have been solved or to analyze the final text of the Convention to its full extent. Severe concessions had to be made in the several systems of law prevailing among the Member States, the process of which was further complicated by language differences.

Besides the elimination of major divergencies, there are basic questions to be dealt with, such as:

a) Should each State be entitled to stipulate the rights required to be recognized in other States?

b) Should each State be entitled to limit the rights to be recognized by all Contracting States?

c) Should the Convention include mandatory provisions regarding the means of recordation?

d) Should the recording method be a part of a national system of registration, or should it be international?

e) Should rights arising from obligations to transfer property be permitted to be recorded?

f) Should only right in rem be recorded or should other rights also be made recordable?

g) Should "fleet motrgage" be recognized and recorded, or not?

It might be possible that the answers found and adopted would not fully embody the views of all Contracting States but it is believed that the Convention represents the maximum protection internationally of rights in aircraft upon which general agreement among the nations could, for some time be reached. Such general agreement is undoubtedly necessary, as a Convention of this nature would, possibly, not work effectively without a wide-spread adherence.

The underlying concept of the Convention is the rule whereby each of the Contracting States recognizes the rights and interest of other Contracting States in aircraft, which rights are created under the law of the State of the aircraft's nationality. Briefly, it means the Canadian aircraft security interest, created and recorded in Canada, will be recognized and given effect in accordance with the law of Canada, even though the aircraft lies within the jurisdiction of any other Contracting State, subject to claims relating to salvage and claims for extraordinary expenses indispensable for the preservation of the aircraft, which are the only claims which have recognized priority.

The Contracting States to the Convention recognize four categories of rights. The first, deals with rights of property or ownership. The second, consists of rights to acquire aircraft by purchase, coupled with possession. The third, comprises leases of aircraft for six months or more, which include one of the features of an "equipment trust" and conditional sale. The fourth, covers mortgages, hypothecs and similar rights contractually created as security for payment of an indebtedness. It is believed that these four categories include all the transactions which are necessary to achieve the objectives required, both in connection with property rights and rights less than ownership, and incorporate the particular requirements of the several States.

The Convention leaves to the law of the State where the sale of an aircraft in execution takes place to determine the procedure, providing only that the date and place of sale should be fixed six weeks in advance, and that the executing creditor should furnish the proceeding court with a copy of the recordings of the aircraft.

A guarantee is incorporated in Art. IX, which excludes the possibility of transfering aircraft from one register to another Contracting State, "unless all holders of recorded rights have been satisfied, or consent to the transfer."

There is one outstanding feature in the new Convention, and that is in respect to spare parts. The peculiar character of the air transport business necessitates the international operator providing, at landing areas in many foreign countries, a large quantity of spare parts which may be quickly available in case of emergency. The idea of a State recognizing rights over moveable property in that State, in favour of a foreigner whose aircraft moves through the State only in passage, is entirely novel, but it is almost revolutionary in respect to spare parts, which are constantly changing, as some are installed in aircraft and replaced by others. The Convention includes spare parts in the category of securities, recognizing the possibilty of the placing of spare parts all over the world as main factors in credit arrangements. This is a new conception and constitutes a tribute to the earnest desire of many states to assist with the achievement of greater uniformity in international private air law.

The Law in Evolution

By F. R. SCOTT

For the purpose of passing examinations and becoming an average practising lawyer a student can succeed if he learns the tools of his trade and a practical approach to legal problems. He need not study "in depth," or worry too much about social trends. For the purpose of fulfilling his responsibilities to society in general, and to become a really great counsel or judge, the student must learn much more than this. He must try to understand the law as it was, as it is, and as it is becoming.

He must see, not a static body of rules, but an evolving system of social practices which changes as society changes, and which not only links him with the past but is also his roadway to the future. And if he is concerned, as every citizen must be concerned, with the direction which that road to the future is taking, he will be aware of the social goals which are appropriate to his time and country and will want to play his part in their attainment through the legal order. For he will understand that no society of any sort can exist without laws, and no free society can exist without laws designed to protect and expand that freedom.

Today the great cnanges that are coming over society are reflected in the changes that are taking place in the law. The causes of those changes are many, but undoubtedly one of the greatest single influences at the present time is the continued growth of industrialism. The industrial revolution, far from being something which occurred and then stopped, seems ever to be recommencing. It is a continuous revolution, derived from the discoveries of science and devoted to the service of the material needs of mankind. The powers which it has given us over nature have compelled the development of new social forms and relations institutionalised through the legal order. In its early days this revolution brought with it the philosophy of laissez-faire and economic individualism; today it has bound men so closely together, it has given us so many common interests, that the emphasis is shifting to the public and the social. A century ago law was concerned more with man's relations with his individual fellow man and with his private rights as guaranteed by the private law. Today we are fully as concerned, if not more concerned, with man's status as a member of some group or association to which he belongs, particularly with his relation to the state — municipal, provincial and federal—under the public law.

On every side the teaching and practice of law today give proof of this constant evolution. The public law in its various forms—constitutional law, administrative law, taxation, industrial law and international law—is rapidly expanding, and the area of private law though still of fundamental importance, is ralatively diminishing. Within the province of Quebec, this means that the law derived from statutes is constantly impinging upon the law found in the Civil Code. The Civil Code contains a concise embodiment of the oasic rules that govern the rights of the individual in relation to the family, to property, to contract and to personal responsibility. It has two thousand years of legal history and experience behind it, and its rules underly most of our day to day activities. In the staules, which represent the new laws enacted by legislatures to meet new situations, we find the public rights and duties of the individual more fully set forth, as well as the powers and purposes of such collective groups as corporations, trade unions, co-operatives, professions and all the various government boards and commissions. And the widening field of social legislation, providing some degree of protection for the individual against the hazards of social living, against unempolyment, accident, ill-health and penurious old age, is still further evidence of the adaptation of the legal order to the needs of an industrial society.

Let us take a simple example of the law in evolution. Consider a small village in Quebec when untouched by modern industry. Ownership of the farm is the principal form of wealth. Private and family rights are the chief, almost the exclusive material the law must deal with. Water may come from a well, sewage is privately disposed of, few if any taxes will be paid, and the family will take care of sickness and old age. There is little commerce and few contracts with the outside world. Place a large industry in that community, and the whole legal picture changes. Workers will flock from the farms to the factory; housing will become congested; public utilities like water, light, gas and sewers must be provided; taxes must be imposed to support new municipal functions; trades unions will be formed and employment will be linked to world markets. Federal tariffs and world trade agreements now become part of the private life of each inhabitant. If Canada finds no markets, the workers will not work. Truly a social revolution has occurred, caused by the advent of industry. And the lawyer serving in that community will find his practice broadened and changed beyond recognition. He will need to become familiar with many new fields of law, but it operates in a dynamic social The private law does not disappear, context, and is overlaid by new layers of public law. Even so private a right as the fixing of a rent for houses may come under a public authority, and into the family circle comes the family allowance, showing the interest of the whole community in the welfare of each child. For Quebec this actual transformation has been vividly protrayed by two sociologists, in Miner's "St. Denis" and in Everett Hughes' "Cantonville."

It is not surprising that the modern changes in the law are viewed with different eyes by different people. Many fear the proletarianisation of the workers that industrialism seems to engender, and fear even more the increasing role that the state comes to play in its effort to harmonise the conflicting interests in a competitive society. They see a disappearance of private rights and a rapid increase of officials. Others fear in turn the growth of a new feudalism arising out of giant corporations, and look to the state to protect them against the power of entrenched money and the insecurity of an unstable economy. Those who probe deeper to sift out the truth and error in these two positions are the men and women whom we must train in our schools and univeristies if we would hope to save our democratic freedoms and build a better society. Nowhere are they more needed than in the legal profession, for the decisions we make on these issues must ultimately be embodied in our laws, and must be applied and interpreted by lawyers and judges. A legal profession that does not keep pace with social demands will be a drag on progress and will cease to command the respect of the public. On the other hand a forward-looking profession that maintains the best traditions of the past while adapting its techniques and rules to the oncoming social situations will render inestimable service to the community it serves.

The Law Faculty of McGill in its hundred years of active training for the Bar of Quebec has produced men of a stamp and calibre second to none in Canada. Given the facilities, among which a building of its own is the first it can and will improve its methods. It has the incomparable advantage of standing at the meeting point of the two great cultures, the English and the Fhench, that are the basis of our national life, and of the two great legal systems, the Common and the Civil Law, on which the civilization of the western hemisphere has been built. It can therefore turn out, and does turn out, graduates who in the truest sense are Canadians, and who also are fit to play their part in the inter-national world of which Canada is now no inconsiderable member.

Students Council Faculty Representatives

BETTY SINCLAIR
Arts & Science

BARBARA WATSON
Arts & Science

MICHAEL ELLWOOD
Architecture

HAROLD CORRIGAN
Commerce

W. R. HARWOOD
Dentistry

COLIN McCALLUM
Engineering

PAUL MacDONALD
Law

BRIAN LITTLE
Medicine

ISABEL GIBB
Women's Union

Friday's Elections

Council, Scarlet Key And Red Wing Results

The results of Friday's campus elections as released to The Daily are as follows:

S.E.C.

Arts & Science: Betty Sinclair, Barbara Watson; Architecture: Michael C. G. Ellwood; Commerce: Harold Corrigan (by acclamation); Dentistry: W. R. Harwood; Engineering: Colin McCallum; Law: Paul McDonald; Medicine: Brian Little; Music and Theology: John L. S. Shearman (by acclamation); Physical Education, Physiotherapy, Graduate Nurses: John Meagher; Women's Union vice-president: Isabel Gibb.

They will join Joan Radley, president of the Women's Union; Jacques Crepeau, president of the Union; Fred Cleman, editor-in-chief of The Daily; and Bob Gill, president of the Students Society to complete the council.

SCARLET KEY "A"

Arts & Science: Gene Cartwright, Fred Greenwood, Ian Hutchison, J. Andrew Powell; Architecture: Doug Lee (acclamation); Commerce: Harold C. Corrigan, Tom Hodgson, William J. McAuley; Dentistry: Peter A. Lefebvre; Medicine: Jim Quayle, Edward Walter; Physical Education: Orrison Burgess, John Meagher; Engineering: Bob Keefler, Robert Bartlett, Douglas Roberton, Lorne C. Webster; Law: Jack Bryson, John Claxton.

SCARLET KEY "B"

Arts & Science Doug Campbell, Bob McAllister; Commerce: Jeffrey Skelton, D. Douglas Creighton; Dentistry: Doug Copeland; Medicine: J. M. Elder, Hugh Brodie; Engineering: Geoffrey B. Taylor (acclamation), George Piper (acclaimation).

RED WINGS

Non-resident

First year: Babette Radley, Diana Sutherland; Second year: June Devaux, Pat Wallace; Third year: Jane Robb, Molly Camp.

Resident

First year: Betty Kimbark; Second year: Martha Wickenden; Third year: Judy Taylor.

Physical Education—Second year: Dianne Lille.

Physiotherapy—First year: Jean Cunningham.

Blues Beat Redmen 3-1 in Dull Contest

By BOB BORNSTEIN

Toronto's vaunted Varsity Blues showed a vastly inferior brand of hockey as compared to that of last year's champs, but still had enough to outclass a hapless band of Redmen 3-1 at the Forum Friday night.

The victory hoisted the Varsitypes into second place in the intercollegiate loop, two points behind University of Montreal, and sent McGill reeling into third spot, with only Queen's perennial cellar-dwellers below them in the standings.

Dave Campbell's Reds have now been beaten twice in three starts, whereas Toronto has won two straight. U. of M. Carabins are currently setting the pace with three wins in four tries.

Bill Spence was the scoring hero for the Blues, chalking up a goal and two assists, thereby figuring in all three Toronto goals. Cec Turcott and Hank "Oily" Boyd were the other lamp-lighters for the Bailey-boys. Dave Hackett blasted home the only McGill counter early in the first period after taking a neat pass from Phil Henry.

The game which was witnessed by approximately 5,000 fans was probably the dullest seen on the Forum ice-sheet this season. It is quite evident that the Blues minus Bark, Winslow, Saunders and Kryzanowski, are not the powerhouse of last year. However, despite this, the Blue-boys were able to generate sufficient power to roll over the Redmen who put on their poorest exhibition of the season.

At no time did the Red and White squad show any marked aggressiveness. Their passing was inaccurate and in play around the Toronto net, the forwards were constantly making Paul Hutzulak look good by inept shooting. On all three Toronto goals the McGill defence was extremely lax and showed an inability to clear properly. Jack Gelineau was perhaps the only member of the team who held up his end successfully as he turned aside many labelled shots in thwarting the Varsity forwards.

Davie Hackett sent the Redmen away to a blazing start when he took a pass from Henry and drove the disc high into the rigging after only 40 seconds of play had elapsed in the tilt.

Toronto came driving back and finally nailed the tying goal from a scramble in front of the McGill cage when Cec Turcott hammered the rubber into the nets after picking up a rebound. Spence and Bob Henry were given sssists on the scoring play, which came at 17:13.

Hank Boyd sent the Blues into a lead they never relinquished at 18:07 of the second session as he combined with Spence to fire a low shot past Gelineau.

The third canto saw Varsity add a final counter to its total. Turcott sent Spence in alone and he made no mistake as he picked the far corner and rifled the rubber into the cage. The time was 14:19.

The Redmen tried desperately to hit the score sheet again in the dying moments and came close on numerous occasions, but poor shooting combined with some great puck-stopping by Hutzulak nullified their efforts.

Toronto: Goal, Hutzulak; defence, Digby, McDougald; centre, Turcot; wings, Spence, Henry; subs: Kavanagh, Ecclestone, Frey, R. Howson, D. Howson, Fox, Moore, Boyd.

McGill: Goal, Gelineau; defence, Gosselin, Hennessy; centre, Henry; wings, Hackett, Parsons; subs: Atkinson, Biegler, Brough, Hale, Heron, May, Sanderson, Sinclair.

Officials: Ken Mullins and Danny Daniels.

First Period

1—McGill... Hackett (Henry) :40
2—Varsity... Turcot (Spence, Henry) 17:13
Penalties: Digby, Gosselin.

Second Period

3—Varsity... Boyd (Spence).. 18:07
Penalties: Brough, Ecclestone, Digby, Sinclair, Beigler.

Third Period

4—Varsity... Spence (Turcot) 14:19
Penalties: Digby, Sanderson, Hennessy, Spence, May, McDougald.

McGill Boxers Defeat Best A.A.U. Offered

Joe Kaplan, McGill, 125, beat Ed Stanholt, decision. Bill Tetley, McGill, 140, beat Martial Clement, decision. Joe Plez, 155, beat Ernie Laidlaw, McGill, decision. Doug McLeod, McGill, 145, beat Francis Englehart, decision. Jean Guy Dutrisac, 160, beat Bob McAllister, McGill, decision. John Heney, McGill, 140, beat Geo. Miller, decision. Milt Orr, McGill, 147, beat Frank Bolla decision.

RADIO FORUM

The second program of the McGill Student-Professor Radio Forum will be broadcast over station CJAD this evening from 9:00 to 9:30 p.m. The discussion will revolve around the topic "Resolved that the achievements of science have merely created an illusion of progress".

Professor Stanley of the Department of Zoology and Professor Mordell of the Faculty of Engineering will take the negative stand on the resolution. Peter Sinclair and Dan Morris, Arts Faculty, will uphold the affirmative side of the argument.

DEBATING TRIALS

Will the following people turn out for the English Tour Debating Trials to be held Monday, November 8, from 4.30-6.00 p.m., in the New Room of the Union.

William Archer, Jon Ballon Boris Berbrier, Leonard Beaton, R. J. Curran, Edward Hugesson, Isadore Rosenfeld, Roland Laprairie, S. Philips, Peter Sinclair, Conrad Shatner, H. Farley.

The topic will be: "Resolved, that the Canadian Citizenship Bill will contribute to the dissolution of the British Empire."

Noted Psychiatrist to Address Newman Club

On Monday night at 8:15 p.m. in the McGill Union, Father Dom Jerome Hayden will address the Newman Club in the second of three lectures on "The Psychology of Love" given as part of the Marriage Course. He will develop the theme presented in his first lecture that "a successful marriage is based on the union of rational and sensitive love."

Father Hayden is at present the Dean of Psychiatry at the Catholic University of Washington and is on a tour through Canada and the United States to investigate research methods being used in other psychiatric centres.

For 18 years prior to 1945 he maintained a practice as a successful psychiatrist during which time he was primarily interested in the psycho-analytic approach, of which he said, "The greatest task facing us is to integrate current psycho-analytic theory with the scholastic philosophy of St. Thomas Aquinas." In 1945 Father Hayden entered the monastery and he was ordained in 1947.

This lecture is open to all students.

WATERPOLO

The McGill Waterpolo team defeated Queens University over the weekend by a score of 6-1. This victory, coupled with their 3-2 win over Toronto last week earns the Redmen the Intercollegiate crown. Further details may be found in tomorrow's Daily, due to the inadequacy of the space available for today.

FOUND

One string of pearls call WE6984. Ask for Mr. Nicoll.

Around the Campus

C.I.C. SMOKER

The annual smoker held by the McGill Student Chapter of the Chemical Institute of Canada will take place this Thursday, December 16. The event will start at 7.30 p.m. in the Union Grill Room.

There will be entertainment during the evening, including movies and a sing-song. Dr. Bowen will be the Master of Ceremonies as in past years.

Beer will be served all evening, and more solid refreshments are to be provided for the hungry.

All the chemistry staff of McGill has been invited to attend and all students will be welcome. The price of tickets is $1.50 for members of the C.I.C. or $2.00 for non-members. Tickets are available from Dr. Bowen, Arch Aikin (grad school), Jim Seay (4th yr. hon, chem.), and Don Campbell (3rd. yr. hon. chem.).

McGILL CHORAL SOCIETY

Practice today Monday, December 13th at 5.00 p.m. in Divinity Hall. All must attend, for this is the last practice before 'Sing at Christmas' on December 17th, and the CBC broadcast which will be before the concert. Don't forget the M.C.S. annual visit to Macdonald College this Wednesday, December 15th.

MINING AND METALLURGICAL SOCIETY

The McGill Mining and Metallurgical Society will hold its regular Tuesday noon-hour film showing at 1:00 p.m. today, December 14th, in Room 102 of the Chemistry and Mining Building — the last showing before the Christmas holidays. The films that have been obtained for today's program are:

1. Heat Treatment—Elements of Hardening.

2. Heat Treatment—Elements of Tempering, Normalizing and Annealing.

Although the M.M.M.S. attempts to obtain pictures of special interest to mining and Metallurgical students, it does welcome all other interested students at these weekly film showings.

RED WINGS

There will be a meeting at 1.30 in the Women's Union Office.

ARTS AND SCIENCE

The sale of tickets for the Arts and Science New Year's Eve dance are going on sale today at the Union Tuck Shop. The dance will be held from 10 p.m. to 3 a.m. Dec. 31. The Westernaires will provide the music. Price of admission is $4.50 a couple.

WOMEN'S SPORTS NOTICES

Swimming:

Change in Ladies Swimming times at the NDG Community Pool: Mondays, Wednesdays and Fridays, 9 a.m.-12 noon, and 6-11 p.m.. Tuesdays, Thursdays and Saturdays, 12 noon-6 p.m.

Ornamental swimming will be held this Tuesday as usual at 5 o'clock, but that will be the last meeting before Christmas. The Tuesday and Thursday practices will be resumed Tuesday, January 18th. There will be no meeting Thursday, December 16th. Swimming will be held as usual on Wednesday.

Basketball:

Results of Friday's games: Turtles beat Bucklos, 16-15; Wendies defaulted to Beads.

Next games on Tuesday: Winems vs. Campers; Joybergs vs. Ric's Angels.

POLITICAL SCIENCE

Mr. Callard of the Political Science Department will address the CCF club at 1 p.m. in the New Room. His subject will be "The British Labour Party."

CO-EDS SQUASH

There will be no coaching today. Coaching will be resumed after the holidays.

McGILL RADIO WORKSHOP

The Radio Workshop Party will begin tonight at 8.00 p.m. in the Union Grill Room. All members of the Workshop and their friends are invited. Drinks and sandwiches will be served and the price is 50c.

THE CASAVANT SOCIETY

The Casavant Society announces the second annual performance of Handel's oratorio, "The Messiah," which will take place at the Notre Dame Church on Monday, Dec. 13. The masterpiece will be performed by the Montreal Elgar Choir of 250 voices conducted by Berkley E. Chadwick. Kenneth Meek will be at the organ.

Soloists engaged are Mina Grant, soprano, Armonde Davis, contralto, Ken McAdam, tenor, and Harry Maude, bass.

PRE-MEDICAL SOCIETY

On Monday, Dec. 13, there will be a meeting of the Pre-Medical Society in Lecture Room A of the Medical Building. Guest speaker will be Dr. J. Ernest Ayre, M.D.

McGILL HISTORICAL SOCIETY

Tonight's meeting of the McGill Historical Society and the R.V.C. Historical Society is open to all students.

The guest speaker will be Dr. Klibanski of the Philosophy Department, who will take as his subject "Mussolini and the Course of the Second World War." All those interested are invited to attend the meeting, which will be held at 8:30 p.m. in the Common Room of the R.V.C.

PRE-MEDICAL SOCIETY

The final meeting of the Society this term will be held at 5:15 p.m. today in lecture room "A" of the Medical Building. Dr. J. Ernest Ayre, a leader in modern gynecytology and research, will speak on "Some Effects of Hormones on Normal Cells and on Cancer Cells." All members are urged to take this opportunity of hearing this outstanding authority on cancer.

The business part of the meeting will deal with the organization of committees and a report on the society pin.

If you have not yet joined, do so today!

Dance for Graduates In Union Wednesday

The Christmas dance and party of the Post-Graduate Student's Society will be held in the Union Ballroom next Wednesday, December 15. Not only will there be dancing, but entertainment of several varieties will be featured, including a pianist and a vocalist. Further, a sing-song of Christmas carols is to be held during the evening.

For those who become thirsty, punch and collins will be served all evening. More solid refreshments will be available as well.

In keeping with the spirit of the season, there is a bargain sale of tickets for the dance. Admission will cost only 75 cents for a person who arrives alone, and, as a bargain to end all bargains, couples will be charged the miniscule amount of $1.00 for a $5.00 value! Even though this affair is a grad students dance, any grad student may bring as many friends as he or she wishes who are not p.g's.

While there will be stags of both sexes present, for those unattached persons who want to take a partner, a dating service is in operation. Both men and women who would like to make up couples should phone Vera Spencer, BE0763 or Helen Henrikson, McGill local 384 or DE7183.

LOST, STRAYED, OR STOLEN

Whoever borrowed a portable Underwood typewriter from under the table in the Arts and Science room in the Union last Wednesday afternoon please return it immediately.

Redmen Victorious Over Ottawa For Initial Triumph of the Year

BY RUBE BRESSLER

The Redmen of McGill surged to a 56 - 27 win over Ottawa University on Saturday night for the first victory of the year. An overflow crowd filled the Currie Gymnasium to witness a four-time beaten McGill team completely overpower Ottawa on this occasion of Athletics Night I.

An inspired McGill squad dominated the play from the opening centre jump to the final whistle. Backboard fierceness was at a peak as the Ryan men held effective control of both boards. The shooting was sharp; the team hitting on about one-third of their shots, and defence was quite good, particularly a second-half zone defence.

Atkins, Caldwell, Fraser fought so savagely off the boards, that the Redmen were able to rain a host of shots at the Ottawa hoop in spite of their zone defence. Atkins' rebounds, Duford's one handers, and some spectacular driving by Myer Bloom, high scorer with 14 points, gave the Redmen an early lead, which they never relinquished.

OTTAWA INEFFECTIVE

Ottawa was unable to effectively crack a close man to man defence and gathered only four shots in the entire first half, at the conclusion of which they trailed 25 to 12. The entire McGill team functioned smoothly, the coach employing two five man units. The play showed several of the "little touted talent," such as Berger, and Godel to good advantage. Lefty Berger and Myer Bloom formed a very fine ball handling pair.

Lefty's feeds were true thread passes leading to scores, while Bloom's points were all the result of hard driving layups. Duford also showed good driving ability and ball handling finesse in addition to his prolific one hand shot, which netted him ten points.

RYAN USES ZONE

Ryan sent his charges into a 2-3 zone defence, with Atkins in the middle, at the beginning of the second half, and this was the defensive gem of the evening. Ottawa was held absolutely scoreless for the first nine minutes of play! When Brennan of Ottawa finally broke through for a score, the crowd gave him a good natured burst of applause.

McGill's attack in the second half also was impotent for a five minute stretch as loose cross court passing and poor shooting were in vogue. Ottawa led by Valois, Rochon and Brennan, Ottawa high scorer with nine points, let fly a host of fancy shots with the most atrocious sort of inaccuracy. It was one of the poorest shooting teams ever seen in these parts. Valois and Rochon taking a large number of shots ran under 10 per cent in connecting for scores. They were however a team filled with fight, and though outclassed, made an interesting game of it.

They threw caution to the winds as the game's end approached, and resorted to a racehorse brand of ball in order to dent a 30 point deficit. It netted them a cluster of 6 points, but it was far too late for these to matter.

McGill played a fundamental game, employing few Bucket plays for either feeding or scoring, although Atkin did hook several times from around the keyhole. What did stand out was the spirit of the team which had absorbed four straight defeats previous to this encounter.

SIDELIGHT . . . Wilson and Berger did wonderful ball hawking in Coach Ryan's zone defence. Atkins hit for 5 of 5 fouls and for 3 of 5 shots in addition to terrific aggressive play.

Ronny Sharpe's knee still looked weak and he didn't follow any of his shots in.

The work of Godell who hit for 6 points, and the poised ball-handling and passing of Berger were very encouraging, as they could be the impetus of continued victory.

The play of the night was when Bloom scored on a fast driving shot, and when Ottawa took the ball out he stole it and scored again! That made four points in three seconds!

Coach Ryan believed the success of the zone defence was the most commendable feature of the game.

	F.G.	F.	Per. F.	T.P.
Bloom	6	2	0	14
Duford	4	2	0	10
Atkin	3	5	3	11
Berger	0	0	0	0
Flewelling	0	0	1	0
Wilson	1	0	3	2
Caldwell	2	1	3	5
Fraser	1	1	2	3
Sharpe	1	1	0	3
Endmen	1	0	1	2
Godel	3	0	0	6
	22	12	13	56

Ask Workers To Report All Funds Returns

Although the Campus McGill Fund Drive officially closed a week ago, a number of canvassers have not yet brought their complete returns to the Fund office. The Committee is particularly anxious to tabulate these final totals and last night issued an urgent request for all canvassers to bring all their final receipts to the Fund headquarters in the Union basement.

Canvassers in Arts and Science, Commerce, and the fraternities are particularly slow in making their final reports and the Fund chairman asked all these workers to complete their canvassing and bring in their totals before this Wednesday at the latest so that McGill's final total can be announced that afternoon.

Wednesday, at 5:15 p.m. the Fund's final Report Meeting will be held in the Faculty Club. The campus total will be announced at this meeting and it is important that all possible returns be tabulated before this time.

Christmas Daily

Articles, Short Stories, Poetry and Pictures in keeping with the Yuletide spirit are requested for the annual Christmas Edition of the McGill Daily. Special prizes will be given to students whose material is accepted for publication in this edition.

Contributions should be handed in to the Feature Editor of the Daily and marked 'Xmas Daily.'

WANTED

A trip to Toronto or London by automobile for two around the 23rd of December. Will share all expenses. Kindly leave any offers at the Union Tuck Shop.

McGILL PLACEMENT SERVICE

SUMMER REGISTRATION

Registration for summer employment will continue indefinitely and will take place only during the hours of 2-5 p.m.

CO-EDS!

If, perchance, you have not yet purchased your ticket to the R.V.C. Christmas Dance on Dec. 18, you will find tickets on sale in the Union Tuck Shop today, and in booths placed in the R.V.C. cafeteria and outside the R.V.C. dining room. Be sure to buy your tickets early, for there are to be only 300 sold.

CHRISTMAS DINNER

Some members of the Rotary Club of Montreal are interested in offering hospitality on Christmas Day to any students of McGill University who come from a distance and who are unable to get home and have no other arrangements for that day. Will any student who is stranded in Montreal for Christmas and has no arrangements for that day please communicate with Dr. C. P. Martin, Department of Anatomy, Medical Building.

U.S. VETS

There will be a meeting of the U.S. Vets Assoc. Dec. 15, at 5.00 p.m. in the Music Room of the Union. Further elections will be held and Mr. E. C. Knowles will be on hand to explain what is being done to speed subsistence checks.

Because most U.S. students are going home for the holidays, anyone who will be driving to the States and can take passengers is asked to leave their names and where they are going in care of the U.S. Vets Assoc. at the Tuck Shop.

BOOK EXCHANGE WILL BE OPEN TODAY, TUES., WED., THURS. and FRIDAY

11:30 A.M. TO 1:30 P.M.

TO CLAIM UNSOLD BOOKS

BOOKS UNCLAIMED BY THIS DATE WILL BE CONFISCATED

Some Reflections On the Practice of Law

one's affairs as to avoid taxation has been held to be not only legitimate but prudent. Succession duties, while at one time relatively unimportant, have now assumed proportions which render them an essential element for consideration.

The complexities of modern business are such that many of the larger corporations have found it necessary to set up their own legal departments which are offering employment to an increasingly large number of young lawyers.

The various fields of public service, whether diplomatic or in the legal departments of the several public agencies, are absorbing more and more of the members of the Junior Bar.

Into which of these many fields should a young lawyer look forward to entering is a question which is present in the minds of nearly every law student. The answer is usually a matter of circumstances and opportunity. As far as concerns preparation I would say that some elementary knowledge of the principles of accountancy is, generally speaking, the most useful addition to one's legal education. The young lawyer who cannot properly interpret a Balance Sheet and a Profit and Loss Account will find himself considerably handicapped, certainly in ordinary commercial practice.

The then Lord Chief Justice of England, Lord Russell of Killowen, in an article written many years ago, speaking of the advantages enjoyed by a barrister who was well equipped with general knowledge in addition to his special training, made an observation with which I thoroughly agree. "It is this: that there is no such thing as knowledge which is useless in this profession. A man may not be a better engineer because he is a good classic, or a more successful merchant because he is a good mathematician; but at the bar the wider the field of knowledge the better. There is no such thing as knowledge going to waste. Indeed, I undertake to say that it rarely or never happens that a barrister does not find useful to his hand information which he has stored up, even upon subjects wholly remote from a knowledge of the law itself."

The French delegate to the Canadian Bar Association, on the occasion of the opening of the Courts last Autumn, gave common sense (le bon sens) as the best qualification for a successful lawyer. This is probably true and particularly true in a profession where one is constantly called upon to give advice.

Lord Russell named the qualifications most necessary to ensure success at the Bar as follows: first: the love of the profession; second: the physical health and energy; and then as to the mental qualities to be considered:

"Common sense and clear headedness must be the foundation and upon these may safely be reared a super-structure where imagination and eloquence may fitly play their part."

The most important thing, however, is to get busy as soon as possible and the busier the better. Experience is the best teacher and the more one can get in the early days of practice the better. Experience is of course most easily obtained through attaching one's self to a busy man or to a busy office. I think that it was Erskine who said that to be a successful lawyer one must live like a hermit and work like a horse. This is probably somewhat of an overstatement but habits of industry early acquired will follow one throughout life.

Lawyers in the olden days came in for a great deal of unwarranted abuse, not only at the hands of Shakespeare but by many other distinguished scribes. One of the Louis absolutely forbade the entrance of lawyers into French Canada. Le Baron de Lahontan in his "Voyages in North America" writes as follows:

"I would never say that justice is here more chaste or more disinterested than in France; but at least if it is sold it is much cheaper. We do not have to pass through the claws of lawyers, through the talons of attorneys nor through the clutches of greffiers. This vermin has never infested Canada; each one pleads his own case."

There is no more striking instance of how times have changed.

I might fittingly finish by quoting Lord Russell's concluding word of advice to a young lawyer:

"He has joined a profession which has given many noble men to the world—men who have done noble work for the world. He has to maintain the great traditions of that profession. He has to bear himself worthily, that no dishonor shall come upon him or upon his profession by him.

He has to recollect that he belongs to a profession which beyond any other has given to the world not merely great advocates and great judges, but great statesmen, great writers and distinguished legislators. He has to remember that while he is fighting for the interests of his client, there are greater interests even than these: the interests of honor and of truth; and he must never forget, as Sir Alexander Cockburn well expressed it, that in the battle his weapon must always be the sword of the soldier, and never the dagger of the assassin."

There are few lawyers who, looking back upon their life, would wish to have adopted any other career.

Cohen—P. 4

less detailed exposition of the facts before the court. By contrast, very often only those facts will be selected for reference in a civil law judgment which have appealed to the court as conspicuously relevant to the formation of the issue which the court must resolve legally. In the end, however, the judicial process in both cases contains the same basic elements: "facts," the legal consequences of these facts, and a decision "logically" stemming from such a finding of legal consequences.

Thus the common law lawyer in Quebec may feel at home not only because the law in force includes a large body of rules that have the common law for origins and continuing inspiration but also because the broad principles of both systems, in most branches of private law, necessarily frame the same generalization. A contract or an injury will give rise to basically similar conceptions in both systems. Equally significant is that the Quebec judge in his work develops an approach to facts and to legal consequences of facts which is bound to be more or less uniform whatever may be the doctrinal source of the rules of law he employs to solve a problem before him.

Canada is uniquely fortunate that within its federalism system there exist in successful operation, the two great legal systems of the modern world. It would be a pity if law students and practitioners in all parts of Canada were to remain unfamiliar with the essential ideas and methids of both legal orders. The common law lawyer who comes to Quebec will see many things that are new, but his knowledge of the Civil Code, its theory and application may serve to heighten his perspective and sharpen his awareness of the main concepts of his own mother system of the Common Law.

One of the great works of the Common Law, Benjamin on Sale, was written by a civilian who came fresh to the common law and applied the civilian discipline and sense of form to the vast accumulation of empirically created common law rules of sale. There is a challenging opportunity in Canada for uniquely creative research and writing in comparative law since the materials are superbly abundant on our own doorstep.

McGill's Faculty of Law 1848-1948

Canadians usually make up twenty to twenty-five percentum of the enrollment. Among them have been such outstanding French-Canadians of the past as Sir Wilfrid Laurier, Sir Adolphe Caron, the Honorable P. B. Mignault and Aime Geoffrion, K.C.; among prominent French graduates today there are Chief Justice the Right Honorable Thibaudeau Rinfret, P.C., LL.D., of the Supreme Court and the Honorable F. P. Brais, C.B.E., LL.D.

Since the beginning of this century the usual enrollment in the Faculty has been about fifty students, except for the unusual periods immediately following the end of the two Great Wars when the numbers were greatly augmented. The class of Law '21 for example was as large as the usual total for the whole Faculty. This is the class referred to some time ago in the Toronto press as "the famous class of Law '21 at McGill." Almost entirely made up of returned veterans of all ranks of the First World War, it included in its numbers law students who have since become the Governor of the Bank of Canada (Graham F. Towers, CMG, LL.D.,), the Canadian Ministers of Finance and of National Defence (the Honourable D. C. Abbott, K.C. and the Honourable Brooke Claxton, DCM, KC.,), a Justice of the Superior Court and a Judge of the Juvenile Court (Honourable Mr. Justice A. I. Smith, K.C. and Judge J. G. Nicholson), the Quebec Liberal and Conservative Party Leaders (G.M. Marler, LL.D. and Ivan Sabourin, K.C.,) and the officers commanding such well known Montreal military units as the McGill and Loyola Contingents C.O.T.C., (Lt.-Col. E. B. Q. Buchanan, ED., KC., and Lt-Col. J. W. Long, ED. KC.,), the 17th Duke of York's Royal Canadian Hussars (Lt.-Col. J. J. Harold, OBE, MC, KC), and the Montreal Regiment of Artillery (Col. H. M. Hague DSO, KC). Indeed down the generations the Law Faculty of McGill has graduated many successful practising Advocates of this Province, not a few of whom but became eminent statesmen, distinguished jurists and great practising lawyers.

In the century of teaching law at McGill the Faculty has had no real home of its own on the campus. The earliest law lectures were probably given in the Arts Building. By the 1860's Burnside Hall was shared with the Montreal High School and the McGill Museum, and when that building was sold (it became the Fraser Institute) the law students for 20 years met for their lectures at the old head office of the Molson's Bank on St. James street in downtown Montreal. Then they returned to the Fraser Institute for a time, but in the '90's came back to the campus to cold and draughty quarters upstairs in the East Wing. At the end of the First World War the Faculty was moved to University Street into the old stone house now used by the School of Architecture. A few years later it was back again in the East Wing until 1942 when it was given quarters on sufferance at Purvis Hall. Law students of the time consider it was quite appropriate that they were replaced in those old cold Dawson Family rooms by the Arctic Institute! It is to be hoped that early in the Law Faculty's second century it may be given a permanent home of its own on the campus worthy of the Faculty's great record of service to McGill and the legal profession.

Problems of a Law Faculty

the skills and techniques required by a practitioner.

Attempts to meet this need have not been successful either in Quebec or elsewhere. Much study is being given to this problem in France, the United States and in Canada. The different professions have solved it in different ways, the Medical through hospital training in diagnosis and treatment during the later years of the under-graduate course and by subsequent internship in a hospital. The Accountants, whose conditions most closely approximate ours, provide for two years of apprenticeship accompanied by night lectures and very strict examinations at the end. This seems good, but accountants themselves are critical of the type of experience provided in many offices in which the convenience of the firm and not the education of the student are said to be the governing factor. In Quebec, after various experiments, a fourth year has been added to the law course in which the universities are expected to enable students to acquire the necessary know-how-to-do which is so essential in practice. How successful this experiment may prove will not be known for some years. To the writer it seems doomed to relative failure, unless an element of reality and an understanding of the way a law office operates can be obtained by placing students, for some time at least, with lawyers who will in fact take their responsibility to the profession seriously and give real experience to their future confreres. In this year the procedure will be intensely practical.

In conclusion a law faculty can best fulfil its duties to the public and to the profession by turning out men with an understanding of the way a government operates at all levels and through all its agencies and of the social and economic implications of these operations. It must also prepare for practice men with these same understandings not only in the field of public, but of private law and with a sound basis on which the skills and techniques necessary to the practitioner can be developed.

LAWYERS IN POLITICS

propriate to his audience, so much more must the politician. For both, words are the stock in trade, the means by which concrete ends are achieved. Without words either would be as powerless as a boxer without arms.

There is another more material reason for the numbers of lawyers found in politics. They belong to one of the groups who are most able to sustain long periods away from their occupation and still carry it on. The demands on the time of the politician are so great that he is often in danger of losing his means of livelihood altogether. This is particularly true of the younger man who has not established himself to such an extent that he can leave to others the management of his affairs.

For outstanding success the lawyer and the politician require two additional qualifications.

The first is a strong constitution: they both must be able to stand long periods of mental and nervous strain. They must also be able to endure very considerable periods which would bore anyone else almost to death.

The second qualification may sound a bit unexpected in view of the jokes about politicians and lawyers alike. Adam Smith referred to "that insidious and crafty animal vulgarly called a statesman or politician." Dr. Johnston said, "Sir, I would not speak ill of any man but I hear that he is an attorney."

In fact, of course, lawyers and politicians alike generally depend for their success on their enjoyment of the confidence of their fellow citizens to an unusual degree. To greater or lesser extent both live in the fierce spotlight of public life.

Anyway, for whatever reason it may be, having taken some part in every election since 1917 and having been in active politics as a member for the division where McGill is situated since 1940, I can say that I believe I have met with less dishonesty in political associations than I believe there to be in almost any branch of private life.

I have found much satisfaction and opportunity for service in both law and politics. Neither fit the shabby mould sometimes cast for them by popular opinion. One of our greatest public servants, and a lawyer, who has for thirty years represented the people in Parliament said recently,

"I have spent half of my life as a member of this House. It has been a good half life. It has been joyous; it has been one filled with comradeship and kindness. There are no moments of it which I regret. I say that with perfect sincerity. There are those who have the idea that politics is a mean kind of game, that it is filled with disappointments and delusions, but so far as I am aware, and so far as I have been able to observe during all these years, politics is filled also with loyalties, with decencies, with honesties, with comradeship, with evidence of the helping hand and the sympathetic spirit. I for one can say that it has been a wonderful life and a good one, and I do not regret it."

I hope that some of you who are students now will later remember that your experience as lawyers gives you a unique opportunity to serve your country and your people in the realm of active politics.

Those who are best fitted must in a democracy voluntarily assume their obligations. Almost everyone trying to express the democratic creed has quoted Pericles, but I am not aware of anyone who has put it better than he did.

"Our citizens attend both to public and private duties, and do not allow absorption in their own various affairs to interfere with their knowledge of the city's. We differ from other states in regarding the man who holds aloof from public life not as 'quiet' but as useless; we decide or debate, carefully and in person, all matters of policy, holding, not that words and deeds go ill together, but that acts are foredoomed to failure when undertaken undiscussed . . .We are alone among mankind in doing men benefits, not on calculations or self-interest, but in the fearless confidence of freedom."

L'Avenir du Droit dans La Province de Quebec

La distinction est souvent très difficile à établir entre les grandes règles de Droit d'un caractère assez permanent pour qu'il convienne de les codifier et les règlementations soumises à d'incessantes modifications qu'il importe de tenir en dehors du Code si on ne veut pas lui enlever ses qualités essentielles de synthèse. La technique législative a de ces exigences et elle ne peut se résumer en quelques formules lapidaires.

Par exemple, qui soutiendra que l'on doive incorporer dans notre Code la législation ouvrière comme celle concernant les accidents du travail, deux matières de pur droit civil?

Il y a là un problème technique sérieux et difficile mais d'une importance secondaire. Ce qui importe avant tout, c'est d'assurer le progrès de la science juridique, non par la seule connaissance des faits et des principes actuellement acceptés, mais aussi par la recherche systématique et ratinonelle des principes juridiques répondant aux besoins actuels de notre Province et conformes à sa mentalité et à ses aspirations.

Ce serait un véritable désastre que d'abandonner cette recherch aux seuls économistes. Ils ne cachent pas leur prétention d'en faire leur domaine exclusif en ne laissant aux juristes que la technique.

Ceux-ci doivent étudier les aspects matériels de ces problèmes tout en sachant reconnaitre la primauté des valeurs spirituelles qui sont à la base même de touts civilisation chrétienne. C'est ce patrimoine que les juristes de la Province de Québec doivent s'efforcer de conserver.

Je termine ces remarques, où je n'ai fait qu'effleurer le sujet, en exprimant ma confiance que ceux qui chez nous se livrent à la science juridique sauront préserver les bases traditionnelles de notre Droit civil sans négliger les remèdes nouveaux qu'exige l'évolution sociale moderne.

Law in the Medical Building

(Pierre Champagne.)

On First Looking Into the Civil Code

(With due apologies to the sacred memory of John Keats)

Much have I wandered in the realms of tomes
And many isles of wisdom drifted by;
Through many nights of toil o'er prose and poems
I've struggled, and gazed at morn with feverish eyes.
Oft of the judicial realm I'd heard,
That justice-breathing Themis held in sway,
Yet never knew, with senses numbed and blurred,
Til once a Civil Code was thrust my way.
Then felt I in a boxer's daze and trance
When stars and planets swim before his ken,
As stoutest Pothier, bard of legal France,
Moved to excess by civil woes of men,
Scored, with juridic zeal, that mixed expanse,
And left me on a peak in Bau-douen.

PAUL McDONALD,
Law '50.

Le Notariat—P. 2

noms des parties. La page ou la fiche d'une personne renvoie aux numéros des actes qu'elle a signés. On peut ainsi les relever d'un seul coup d'oeil.

Sans un ordre du juge, il est rigoureusement défendu au notaire de se départir d'aucun de ses originaux. Il n'a pas le droit de les sortir de son étude. Il lui est strictement interdit de les altérer, encore plus de les détruire.

En délivrer des copies ou extraits. Puisque l'original de l'acte reste pour toujours chez le notaire, ou aux archives du district, il devient nécessaire qu'on puisse en donner des copies qu'on appelle des expéditions. Le notaire ou le gardien du greffe prépare pour cela une copie exacte, mot pour mot, du texte même de l'acte et des signatures qui y sont apposés. Il termine le tout par un certificat attestant sous sa signature officielle que l'expédition est conforme à l'originale. Enfin il y appose son sceau.

Le sceau d'un notaire n'est pas autre chose que les armoiries de la province de Québec elles-mêmes, avec en exergue le nom du notaire. Cela marque bien qu'il agit d'autorité et que les documents portant un tel sceau jouissent du caractère d'authenticité qui s'attache aux actes émanant de l'autorité.

Aussi l'expédition au point de vue de la preuve, est authentique, comme l'acte lui-même.

Juridiction du notaire. Le notaire est nommé à vie. Sa commission lui est octroyée par le Chambre des Notaires, ce qui le rend indépendant des vicissitudes de la politique. Il est autorisé à exercer les fonctions notariales n'importe où dans la Province. Il peut même instrumenter à l'étranger, n'importe où dans le monde, pourvu que les parties, ou l'une d'elles, soit domiciliée dans la province, ou que l'acte concerne des biens ou droits dans la Province.

Avantages des actes notariés Tous les étrangers auxquels il a été donné d'examiner le système des actes notariés de la province de Québec, en sont émerveillés. Il y a de quoi, si l'on songe aux avantages suivants:

a) rédaction par homme de loi;
b) facilité de la preuve à cause du caractère d'authenticité;
c) conservation assurée. Chez nous on retrace tous les titres de propriétés jusqu'à la concession originale par le seigneur ou la Couronne;
d) facilité d'obtenir des copies;
e) secret absolu, car il n'y a pas d'autres témoins que le notaire;

C'est donc un élément important de sécurité que d'avoir pour ses droits et biens la protection d'un contrat "par devant notaire" comme disaient nos pères.

Autres documents. Le notaire en tant qu'officier public signe encore les déclarations et dépositions assermentées, et quantité d'autres certificats. Il agit d'office en qualité de commissaire de la Cour Supérieure.

Je ne saurais terminer cet article sans souligner l'heureux évènement que célèbre la Faculté de Droit de l'Université McGill, le Centenaire de sa fondation.

Jadresse, en cette occasion, tant au nom de l'Ordre des Notaires de la Province qu'en mon nom personnel, les plus chaleureuses félicitations à Monsieur le Doyen, aux membres de la Faculté, aux professeurs et aux étudiants.

The development of law comes from two sources, custom and religion. In the earliest times custom and religion were almost indistinguishable.

$450 FOR COLLEGE IN OHIO TOWNSHIP

Heiress Left Bulk of Fortune to Lithopolis (Pop. 288) for Scholarships

Lithopolis, Ohio.— —The affection of an heiress for her father's birthplace has most teen-agers in this one-street central Ohio village engrossed in a welter of college catalogues. Every boy and girl living in Lithopolis—population 288—can have a grant of $450 a year to attend college just for the asking.

Youngsters from the surrounding farms and hamlets in the six square miles of Bloom Township also are entitled to the money.

Mrs. Mabel Wagnalls Jones, daughter of the dictionary publisher, Adam Wagnalls, by will gave to the village and township the major part of her fortune, $2,500,000. The only string to the bequest is that the money be used for college educations.

Mrs. Jones died in 1946, but long before then the community which Adam Wagnalls left as an infant had experienced the generosity of its favorite son's daughter. In 1925 Mrs. Jones built a $500,000 community centre in Lithopolis and dedicated it to her parents.

The building is the village's largest structure and houses a public library of more than 9,000 volumes. In it, on Fridays and Saturdays, townspeople see the only movies shown within fifteen miles. Weekly organ recitals are given. Churches and civic organizations use the centre's kitchen and dining room for their banquets.

The college grants became available for the first time this year. Five of Bloom Township's 1948 high school graduates have received their first cheques. The administrators are the five members of the governing board of community centre. The secretary, Mrs. Mabel Stevenson, explained the qualifications youngsters must have to receive scholarships.

"They must take a regular college course," she said. "We don't want them studying, for example, in business colleges."

A student whose course takes longer than four years, Mrs. Stevenson added, will continue to receive his yearly $450 until he completes his work.

Bloom Township's only school ends at the eighth grade. Older students attend one of three large high schools in nearby towns. About half of the twenty youngsters who will be eligible for the scholarships next year have said that they intend to apply for them. Some will study agriculture, others will take courses leading to law and medicine.

Girls who want to be secretaries —but cannot receive the grants for study at business colleges—may take college courses in business administration.

Notre Faculte De Droit

by Gerard D. Levesque, Law 3

A McGill, c'est différent! Ce n'est peut-être pas mieux, mais c'est différent. . . tout à fait différent.

On me demande souvent dans des milieux francophones pourquoi je suis venu à McGill et si j'aime ça.

A la première question, je dois répondre avec hésitation car il n'y a certes pas eu longue préméditation de ma part. Je ne sais si c'est la curiosité, l'attraction du nouveau ou autre raison superficielle qui m'a poussé vers McGill plutôt que vers l'Université de Montréal; il se pourrait que ce fut mieux connaitre la jeunesse anglo-canadienne et pour me familiariser davantage avec la langue de Shakespeare. En général, c'est cette dernière raison qui semble avoir décidé mes confrères Canadiens-Francais à fréquenter McGill.

A la seconde question, je réponds dans l'affirmative. J'aime ça à McGill, pour la simple raison que c'est ici que j'ai vraiment appris à travailler par moi-même. Les cours sont espacés; le contrôle des études est à son minimum; il n'y a d'examens qu'à la fin de chaque année. Souvent les cours sont des schémas parsemés de multiples références aux auteurs et à la jurisprudence, plutot qu'une analyse détaillée des principes de droit et de leur enchainement ordonné et logique dans un système juridique. Quelquefois des cours autrement pénibles se révèlent intéressants grace aux discussions qui illustrent le sujet à l'étude.

L'étudiant n'est plus simplement un sténographe ou un manoeuvre mais un homme qui pense.

Entre les cours, l'étudiant complète ses connaissances par un travail personnel de recherches et de lectures suggérées par le Conférencier.

Voilà, il me semble, un aspect de la faculté de droit de McGill qu'il faut connaitre, et faire connaitre à l'occasion du centenaire de so fondation.

Secretary's—P. 3

instance one day a gentleman came into our office and when I asked him if he had come to register for first year his reply was as follows: "No, Miss, I am a Doctor of Civil Law and have come to see the Dean."

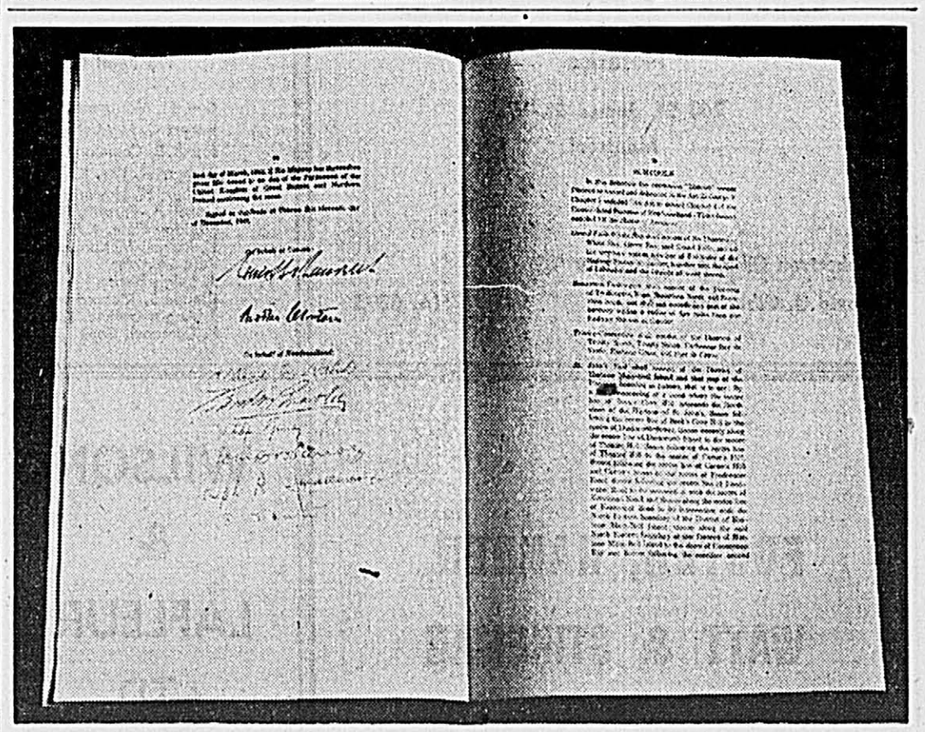
I like my job because the happiness over-balances the heartaches and a request to perform an unexpected undertaking is always prefaced with a "would have time" and followed by "thank you." In fact I can't imagine a position I'd prefer.

As the Law Faculty is celebrating its one hundredth anniversary. I hope it will grow greater in the years to come and that every Secretary it employs will enjoy working for it as much as I do.

JANET RENAUD,
Secretary for the Law Faculty.

American Law

The laws of the United States rest at bottom on the same foundation as those of England; namely, the English common law as it existed in the 17th century. New Mexico, Louisiana and the acquisitions following the Spanish-American War of 1898 are about the only exceptions worth noting. These derive most of their law from France and Spain, and thus remotely from the principles of Roman jurisprudence, but these laws have been greatly modified since coming under the United States Government. It is the right of each state, however, to regulate at its pleasure the general relations of persons within its territory to each other, as well as all rights to property subject to its jurisdiction.



HISTORIC DOCUMENT: Eight persons, two for Canada and six for Newfoundland, signed the historic confederation agreement Saturday in the Senate Chamber of the Ottawa Parliament Buildings. The document is shown above. Those signing were, for Canada: Prime Minister Louis St. Laurent and Defence Minister Claxton; for Newfoundland: A. J. Walsh, chairman of the delegation; F. C. Bradley, Philip Cruchy, J. B. McEvoy, Joseph Smallwood, and G. A. Winter. (Canadian Press Photo.)

...Qui Mal y Pense

PIPER AND THOMAS

GAS CHAMBER REVERIE

One day while serenely inhaling the coal gas fumes in Duggan house during a lecture, a vision appeared out of our trance and lo, there came into view a representative cross-section of all the great figures of Canadian judicial history. They were all there, from Despatie, Hodge and their Majesties to Mignault and the British Coal Corporation.

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First came one Despatie (ancien ami of our Dean), a fine figure of a bon pere de famille. He merely scowled, took a chomp at his tabac canadien and said: "Who it is, dis Conseil Privy what give to ma femme dat right to tell me what to do all my life?"

Then there came that typical publican, Hodge, who stood against the Ontario government's early closing laws even before the days of the Hydro shortage. Fearing for his safety lest Professor Scott should notice him, we advised him to go on his way. The good professor has often shown a distaste for the consequences of Hodge's suit against Her Majesty which so gravely affected federal "autonomy."

There followed then the late Justices Anglin and Taschereau. We asked the former if it was sheer malice which led him to quote the works of Mignault against the decisions of that learned author himself in the Regent Taxi case. Justice Anglin smiled and said he could not answer, the matter still being sub-judice, in the hands of his learned friend, St. Peter. Justice Taschereau was heard to comment on this, but as usual his remarks were couched in the purest of Common Law Latin and we could not understand.

Meanwhile Lord Haldane stood apart, disdainful as ever of these colonials and their legal theories. And then suddenly there were heard the sounds of yet another legal altercation which included many anguished screams, but it was only Idington, J. dissenting, and this brought us back to reality.

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We Are Poor Little Lambs

Since this issue of the Daily is devoted entirely to Law, we in turn are devoting our small efforts to that fascinating subject. During the past year and a half we have often heard talk of indentureship,—a fascinating subject. Not being articled ourselves, (neither of us having relatives in practice), we set out to interview several of our class-mates who are.

One chap, just back from "the office" of his patron momentane, moaned: "It was horrible! They just sent me for a fiat,—I didn't know enough to go to the court house and I tried to borrow one from a notary!" A nearby cherub in first year then asked: "By the way, just where is the court house?"—The business of articling is fast dying out.

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What Every Advocat Should Know

For the benefit of those who are just commencing the study of law, it would not be out of place to give them a few tips to assist them in their work. The following is a list of truths we discovered when we too were just plain novices:

When reading a case, the judge or judges are always listed as: Cannon, J., or Cannon, Anglin, JJ. This does not mean that their Christian names are Jim, or even Jean-Jacques. The letter "J" merely stands for "Justice."

Remember, the underlined portions of each judgment are not always the most important. Indeed, your predecessors were no more brilliant than yourselves. This piece of advice can also be extended to the marginal jottings made in most cases. These are usually more political than legal (v. Despatie vs. Tremblay), more blasphemous than true.

Furthermore boys, do not worry too much about Professor Cohen when he contrasts "macro" with "micro" jurisprudence in his process of the crystalization of gastronomic syntheses. Just memorize these words in the proper order and quote them verbatim. They never turn up in cases.

When studying in the small rooms off the main library, never fear that you will be isolated in the ivory towers of learning. Regularly every three minutes one of the librarians will poke her head in to assert, in a very presumptuous manner, that No Smoking rules are being observed. We understand that the Undergraduate Society is even now dickering with the Imperial Tobacco Co. with reference to a special law undergraduates' size "butt."

RESOLVED THAT THE DEATH SENTENCE SHOULD BE ABOLISHED IN CANADA

A bilingual debate is to be held in Moyse Hall (Arts Building) Saturday December the 18th, at 8.15 p.m. It is sponsored by the Faculties of Law of Universite de Montreal and McGill. The judges of the debate will be Charles Coderre, Secretary of the Bar of the Province of Quebec, John Crankshaw, K.C. and Claude Prevost, K.C., well known criminalists. The debaters, on the affirmative side, are two McGill Law students, Claude Wagner and Paul McDonald, and for U. of M. Jean Claude Novlin and Jean Marc Briere. Dancing will follow in the Union Ballroom. $1.50 a couple. Refreshments will be available.

R t g . .

CAPITUS DEMINUTIO

by Donald MacLeod

Once upon a time there was a student, and he was in no manner of speaking just an ordinary one. He had looks, wealth and social position, many friends and a host of admirers. He was the star of the football, hockey and boxing teams, and a four-no-trump bridge player. His orations at the mock parliaments were the envy of all; the Red and White Revue was built solely around this dynamic personality. In short, he was "The Big Wheel" of the campus.

Having spent many successful years on the McGill-Hit-Parade, he decided to crown his accomplishments with a degree in Law. This, thought he, is a task tantamount with my capabilities and it shall be my shining hour to become the beacon of the Hall on the Hill. With lachrymose farewells amidst streams of flowing mascara, he made his way up the hill with the cries of Excelsior still ringing in his ears.

The "Law Do" introduced him to the brass of the faculty, his fellow aspirants and four thousand cases for approval, but nonchalantly he made his debut. Ironically enough, even before the first term had waned, a pronounced change was noted in our young protagonist. He had missed two games of football to wrestle with legal conundrums from Bucklands Manual. The hockey coach had had to reprimand him for muttering Latin phrases at the Varsity team and his boxing conformed too rigidly with Article 1056 of the Civil Code. He became wary of the obligations incurred in making bridge contracts. Even the hierarchy of the Red and White Revue warned him that if he were to continue saying "define your terms", demotion to switch operator was inevitable. His bubble reputation was receiving quite a bounce; when he sought dispensation from his social convenants to sulk among the bookshelves, the ominous hiss of deflation was audible.

Slowly his popularity faded. Friends avoided him as a "has been." The Union greeted him with cold shoulders empty faces and empty coffee cups. Instead of the smiling confident hero of Arts & Science, he had become a frustrated Law student; haunted by vision of Despatis v Tremblay by night and confronted with his own ostracism during the day. Sans doute, this student was embrangled in a quandary. His embryonic legal mind forced him to face the facts, resolving his conflicts into three briefs. Could he ever reclaim his seat with the mighty? Was the price of a Law degree worth this quaff from the bitter cup? Would he pass his exams in May?

On a late day in April . . . a soft splash was heard from the railing of Jacques Cartier bridge—Capitus Deminutio fiendishly chalked off another victim.

Problem in Romanesque

By KEN HOWARD, '49

Poor Dolores! She had spent her last quid pro quo.. Everything she owned was ad hock, except for the ex party suit she was wearing. Did she dare ask her drunken, bankrupt pater familyass for a loan in forma popper-please? Yes, she must, it was her last chance.

As she entered his room, the intent stare decisive on her prima facie betrayed her woman's rea. "Please restitutio me in integrity." She pleaded, "This is a damnum emergency."

Poor Dolores! After a moment's lull her father broke into a violent patria protestas and angrily pointed out that he had never been anything but jus dam generous. But then, suddenly, he relented and with a sneer said, "Okay, what's the quantum, Dolores?"

Happy Dolores! She swooned in joy falling de in end verso on the floor. She hurt herself. It was a bad volenti fit plus injuria.

And can you imagine! This injury was the result of her father playing a res jestae! Poor Dolores!

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The Problem: If he had entered her room and hadn't been her father would she have had a proper action? Be serious.

ROMAN AND ENGLISH LAW

Roman and English law are peculiar among the legal systems of western Europe for the individuality of their development. Roman law received its philosophy from Greece, and it has been said that the English common law has gone with Englishmen to the ends of the world, but both English and Roman law have been much less touched and colored by outside influence than other systems. Each has, in its turn, however, presented to the world what may be taken as a picture of the natural, the normal and unstrammeled evolution of law.